

# LAW ON AIR TRANSPORT

## I. BASIC PROVISIONS

### Subject

#### Article 1

- (1) This Law regulates the air traffic in the airspace of Montenegro (hereinafter called: the airspace of Montenegro), the conditions for safe operation of air traffic, air traffic management and other issues of importance for air transport

### Air transport

#### Article 2

- (1) Air transport in the sense of this Law is the flying of the aircraft and movement of the aircraft to operating areas of aerodrome.
- (2) Civil air transport is the air transport excluding military air transport.

### Scope

#### Article 3

- (1) This Law applies to:

- 1) all civil aviation activities carried out in the territory and airspace of Montenegro, as well as outside the territory and airspace of Montenegro to aircraft registered in the Register of Civil Aircraft of Montenegro (hereinafter called: the Register), if this is not contrary to the regulations of the state where the aircraft are located
- 2) foreign aircraft using the airspace of Montenegro, in accordance with the concluded international agreements;
- 3) military airports and state aircraft.

### Definitions

#### Article 4

The terms used in this Law have the following meaning:

- 1) **airport**: a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement and stay of aircraft,
- 2) **aeroplane**: a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight,
- 3) **security control**: a combination of measures and procedures which prevent the introduction of prohibited means;
- 4) **airspace block**: airspace of defined dimensions, in space and time, within which air navigation services are provided;

- 5) **certification**: any form of recognition that a product, part or appliance, organisation or person complies with the applicable requirements as well as the issuance of the relevant certificate attesting such compliance,
- 6) **air operator certificate (AOC)**: a certificate delivered to a legal or natural person or state administrative body confirming that the operator has the professional ability and organisation to ensure the safety of operations specified in the certificate,
- 7) **Airspace of Montenegro**: the space over the land, inland waters and territorial sea of Montenegro.
- 8) **Montenegrin military aircraft**: aircraft which have been entered in the military register of Montenegro,
- 9) **part or appliance**: any instrument, equipment, mechanism, part, apparatus, appurtenance, software or accessory, including communications equipment, that is used or intended to be used in operating or controlling an aircraft in flight and is installed in or attached to the aircraft. It shall include parts of an airframe, engine or propeller, or equipment used for manoeuvring the aircraft from the ground;
- 10) **occurrence**: operational interruption, defect, fault or other irregular circumstance that has or may have influenced flight safety and that has not resulted in an accident or serious incident;
- 11) **state aircraft**: aircraft used for military, customs or police purposes,
- 12) **ECAA Agreement**: the Multilateral Agreement on the Establishment of a European Common Aviation Area between the European Union and its member states and the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo.
- 13) **effective control**: a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on a legal or natural person, in particular by the right to use all or part of the assets of a legal or natural person; or rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of a legal or natural person or otherwise confer a decisive influence on the running of the business of the legal or natural person,
- 14) **European Aviation Safety Agency (EASA)**: an agency of the European Union established with the purpose of developing common safety standards, and ensuring their uniform implementation in Europe,
- 15) **EUROCONTROL** is the European organisation founded by the International Convention on Cooperation for the safety of air navigation;
- 16) **flexible use of airspace**: an airspace management concept applied in the European Civil Aviation Conference (ECAC) area on the basis of the special regulation of EUROCONTROL which regulates the flexible use of airspace.
- 17) **heliport**: airport or a defined area on a structure intended to be used wholly or in part for the arrival, departure and surface movement of helicopters.
- 18) **helicopter**: a power-driven heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes:

- 19) **interoperability**: a set of functional, technical and operational properties required of the systems and constituents of the European air traffic management network (EATMN) and of the procedures for its operation, in order to enable its safe, seamless and efficient operation. Interoperability is achieved by making the systems and constituents compliant with the essential requirements,
- 20) **cabotage**: the right that a foreign air carrier of a signatory state of the Chicago Convention performs transport of passengers, cargo and/or mail and in non-stop air transport between airports within the territory of Montenegro,
- 21) **capacity**: the number of seats or the payload offered to the general public on a scheduled air service over a given period,
- 22) **commercial operation**: any operation of an aircraft, in return for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator,
- 23) **commercial air traffic**: the scheduled air service, unscheduled air service and rendering air services for remuneration or hire;
- 24) **component**: engine, propeller, part or appliance,
- 25) **continuing airworthiness of an aircraft or an aircraft component**: all the processes ensuring that, at any time in its operating life, the aircraft or the aircraft component complies with the airworthiness requirements in force and is in a condition for safe operation,
- 26) **continuous oversight**: the tasks to be conducted to verify that the conditions under which a certificate has been granted continue to be fulfilled at any time during its period of validity, as well as the taking of any safeguard measure,
- 27) **Airspace User**: operators of aircraft operated as general or operational air traffic,
- 28) **airfield**: an airport which is, as a rule, used for flying of gliders and motor gliders which do not take off on their own, and the use of which can also be expanded for flying of other types of aircraft,
- 29) **scheduled air transport**: a series of flights having characteristics so that on each flight the seats and/or the capacity to transport cargo and /or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents); or a series of flights operated so as to serve traffic between the same two or more airports, either according to a published timetable, or with flights so regular or frequent that they constitute a recognisably systematic series;
- 30) **local day**: a time period of 24 hours starting at 00,00 local time;
- 31) **local flight**: a flight not involving carriage of passengers, cargo and/or mail between different airports or other authorised landing points,
- 32) **manoeuvring area**: a part of the airport, excluding aprons, specified for taking off, landing or taxiing of aircraft, before taking off and after landing;
- 33) **international airport**: any airport designated as an airport of entry or departure for international air traffic where the procedures of clearance, border control, customs etc. are carried out,
- 34) **international standard**: every specification of physical features, configuration, material, capability or characteristics, personnel or procedure the uniform acceptance of which is

necessary for safe, regular and undisturbed performing of air traffic, and which signatory states must meet,

35) **international air traffic**: traffic which is carried out in the airspace over the territory of two or more states,

36) **International Civil Aviation Organization (ICAO)**: specialized agency of UN established by Chicago Convention in order to develop standards of technologies and encourage the development of international air transport;

37) **National Supervisory Authority - NSA**: the independent body in charge of tasks of certification and continuous oversight of air navigation service providers and other tasks assigned;

38) **Air Traffic Control Unit**: Area Control Service, Approach Control Service or Airport Control Service,

39) **non-commercial operations**: all non-commercial operations in civil aviation other than scheduled air services and non-scheduled air transport operations for remuneration or hire,

40) **non-commercial air traffic**: transport for its own needs, sports or amateur flying performed without remuneration or hire;

41) **accident**: an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which a person is fatally or seriously injured as a result of being in the aircraft, or direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or direct exposure to jet blast, *except* when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or the aircraft sustains damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, *except* for engine failure or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear, doors, windcreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear; or the aircraft is missing or is completely inaccessible.

42) **Incident**: an occurrence other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation.

43) **Announcement in the manner appropriate to air transport** is the announcement in Aeronautical Information Publication (AIP), notices to Airmen (NOTAM), Aeronautical information Circular (AIC) or in any other special publications;

44) **Airspace Restriction**: danger, restricted or prohibited areas for the flight of aircraft,

45) **Danger Area**: defined volume of airspace within which, as the case may be, activities dangerous to the flight of aircraft may exist at specific times,

46) **Operating Licence**: an authorisation granted by the competent authority to the air carrier to provide air services;

47) **movement area**: a part of the airport, designated for taking off, landing or taxiing of aircraft, consisting of the manoeuvring area and the apron;

- 48) **Air Traffic Services - ATS**: the various flight information services, alerting services, air traffic advisory services and Air Traffic Control services (area control service, approach control service and airport control service),
- 49) **Operational Air Traffic - OAT**: flights of all civil aircraft and State aircraft operated in accordance with specific procedures which do not comply with the rules and procedures stated for General Air Traffic (GAT),
- 50) **airport operator**: a legal or natural person managing the airport,
- 51) **aircraft operator**: a legal or natural person operating or intending to operate the aircraft,
- 52) General Air Traffic-GAT: all the operations of civil aircraft, as well as operations of state aircraft performed in accordance with the rules and procedures of International Civil Aviation Organisation (ICAO);
- 53) **serious incident**: an incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down;
- 54) **flight plan**: specified information provided to air traffic service units relative to an intended flight or a portion of the flight of an aircraft,
- 55) **flight information region**: means an airspace of defined dimensions within which flight information services and alerting services are provided,
- 56) **unscheduled air transport**: transport of persons, cargo and/or mail other than scheduled, for example non-scheduled charter transport, taxi-transport, panoramic flights, and similar,
- 57) **aircrew**: the persons in the aircraft with the function of members of flight crew, the persons transported in the cockpit, who were determined by the aircraft operator to train and supervise the training, experience, skills and perform periodical checks required based on regulations, and the members of cabin crew;
- 58) **traffic right**: the right to provide air transport service between two airports,
- 59) **recommended practice**: every specification of physical features, configuration, material, capability or characteristics, personnel or procedure the uniform acceptance of which is accepted as desirable for safe, regular and undisturbed performing of air traffic, and which the signatory states should endeavour to meet, in accordance with the provisions of the Chicago Convention,
- 60) **safety assessment of foreign aircraft (SAFA)**: programme for ramp inspection of foreign aircraft,
- 61) **product**: an aircraft, engine or propeller or appliance;
- 62) **aerial work**: use of aircraft for specialized purposes such as operations in agriculture, forestry or construction, fire protection, hail protection, search and rescue, advertising, recording from air, supervision and patrolling, verification of radio-navigation appliances, and similar
- 63) **apron**: a specific area in the airport intended to accommodate aircraft for boarding and disembarking of passengers, loading and unloading of cargo or mail, fuelling and lubricating, and for parking and maintenance of aircraft,

- 64) **runway**: a specified rectangular area on the ground, water or a facility, intended for taking off and landing of aircraft,
- 65) **flight schedule**: the determined time of takeoffs and landings of aircraft in the scheduled air transport,
- 66) **Airspace Reservation**: a defined volume of airspace temporarily reserved for exclusive or specific use by certain users,
- 67) **Air Traffic Advisory Services**: services provided within advisory airspace to ensure separation, in so far as possible, between aircraft which are operating on IFR flight plans,
- 68) **slot**: the scheduled time of arrival or departure available or allocated on a certain day for the movement of aircraft on a coordinated airport;
- 69) **complex motor-powered aircraft**: an aeroplane with a maximum certificated take-off mass exceeding 5700 kg, or certificated for a maximum passenger seating configuration of more than nineteen, or certificated for operation with a minimum crew of at least two pilots, or equipped with one or more turbojet engines or more than one turboprop engine, or a helicopter certificated for a maximum take-off mass exceeding 3175 kg, or for a maximum passenger seating configuration of more than nine, or for operation with a minimum crew of at least two pilots, or a tilt rotor aircraft;
- 70) **sports aeroplane** – means heavier-than-the-air aircraft with the crew, with or without engine (ultralight aircraft, paraglider, kite and similar);
- 71) **Air Navigation Technical Systems**: the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight,
- 72) **Air Traffic Flow Management - ATFM**: a function established with the objective of contributing to the safe, orderly and expeditious flow of air traffic by ensuring that ATC capacity is utilised to the maximum extent possible, and that the traffic volume is compatible with the capacities declared by the appropriate air traffic service providers,
- 73) **Air transport services**: the flight or several flights for the transportation of passengers, cargo and/or mail with the remuneration or/and other kind of fee;
- 74) **Flight Information services (FIS)**: services established to provide information and advice required for safe, regular and efficient flights;
- 75) **Alerting Services - ALRS**: service provided to notify competent organisations regarding aircraft in need of search and rescue aid, and assist such organisations as required,
- 76) **Restricted Area**: is the part of the airspace of Montenegro, within which the flight of aircraft is provisionally restricted in accordance with previously defined conditions,
- 77) **military air traffic**: air traffic in which Montenegrin and/or foreign military aircraft take part,
- 78) **block flying time**: the time between an aircraft first moving from its parking place for the purpose of taking off until it comes to rest on the designated parking position and until all engines are stopped,
- 79) **pilot-in-command**: the person with the right of the final decision, responsible for controlling and serving the aircraft during the flight and on the ground,
- 80) **air transport**: transport of passengers, cargo or mail by aircraft from one place to another,

81) *air carrier*: a legal or natural person with a valid operating licence or equivalent document,

82) *aircraft*: any machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface,

83) *Prohibited Area* is the part of the airspace of Montenegro, within which the flight of aircraft is prohibited.

## **II. AGENCY FOR CIVIL AVIATION**

### **Legal position of the Agency**

#### **Article 5**

- (1) The Agency of Civil Aviation (hereinafter called the Agency) is an independent legal person which performs public authority in accordance with this Law.
- (2) The Agency is founded by the Government of Montenegro (hereinafter called the Government).
- (3) The Agency's headquarters is in Podgorica.
- (4) The Agency is independent in performing the activities from its competence and responds to the Government for its work.

### **Competences of the Agency**

#### **Article 6**

- (1) The Agency is competent for:
  1. certification of air operator and operating license;
  2. certification of aircraft type, of airworthiness of aircraft, of airworthiness inspection and of registration;
  3. certification on meeting the conditions by legal persons to maintain aircraft;
  4. certification of organisations for professional training of aeronautical personnel;
  5. certification of civil airports;
  6. certification of organisations for providing continuous airworthiness;
  7. licensing and ratings of civil aeronautical personnel;
  8. preparing the expert grounds for the development of programs, plans, secondary legislation, adopted by the Government and state administration body competent for the affairs of transport (hereinafter referred to as: the Ministry);
  9. adoption of general acts in accordance with this Law and acts for the implementation of ECAA Agreement, other concluded international agreements, international standards and recommended practices from civil aviation, and especially standards, procedures and recommended practices of ICAO, ECAC, EASA and EUROCONTROL with the consent of the Ministry;
  10. adopting acts to undertake urgent measures which specifically provide protection of air

traffic safety;

11. conducting Registries and records in accordance with this Law;
12. performing professional supervision over the implementation of this Law and concluded international agreements;
13. continuous oversight on meeting the conditions in accordance with this Law;
14. cooperation with authorities of other countries competent for civil aviation;
15. performing other activities in accordance with this Law and Agency Statute.

(2) The regulations of the Agency from paragraph 1 point 9 of this Article are being published in the "Official Gazette of Montenegro".

(3) The Agency is the National Supervising Authority performing the affairs related to the definition of meeting the requirements to provide air navigation services, issuing the certificates to air navigation service providers, continuous inspection over air navigation service provision and supervision over air traffic management.

(4) To a legal person who has the certificate to provide air navigation services (hereinafter referred to as: air navigation service provider), aircraft operator, airport operator and other entities performing the affairs related to air transport (hereinafter referred to as: aircraft entities) the Agency may approve for the period not longer than six months the derogation from meeting specific administrative and other requests if it determines that aircraft entity provided in any other manner the same level of air transport safety which is obtained by the application of such request.

## **Agency Statute and activities**

### **Article 7**

(1) The Agency Statute regulates: the Agency's internal organisation, representation, budgeting, business planning and annual report, its work and conduct of business, its authority and decision-taking modalities of the bodies of the Agencies, its general acts and other matters important for the working of the Agency.

(2) The Agency Statute shall be adopted by the Agency Council (hereinafter called: Council), with prior consent of the Government.

(3) To Agency employees' legal status, employment conditions, salaries and other matters concerning working relations shall be regulated by the general labour regulations.

(4) Provisions of the law defining general administrative proceedings apply to the activities of the Agency unless otherwise stipulated by this Law.

(5) An appeal against the decision of the Agency may be submitted to the Ministry.

## **Agency Bodies**

### **Article 8**

The Agency bodies shall be the Agency Council and the Director (hereinafter called: the Director).

## **Agency Council**

### **Article 9**

- (1) The Council is the managing body of the Agency.
- (2) The Council consists of the President and four members.
- (3) The President of the Council organises sessions and presides over the work of the Council, and when absent, his deputy is the member of the Council elected by the Council at the first session.
- (4) Regular sessions of the Council are held when needed, and at least once every three months.
- (5) The Council responds to the Government for its work.
- (6) The President and members of the Council are nominated by the Government for a period of 5 years and they can be nominated at most twice successively.
- (7) The appointed President of the Council and members of the Council shall be citizens of Montenegro, with a university degree in the field of traffic, engineering, law or economics and at least five years of working experience.
- (8) The President and members of the Council shall not be persons employed or performing other activities for legal persons which are governed by the provisions of this Law, nor shall they be owners, part-owners, or members of their management bodies, or perform other activities which could result with the conflict of interests.
- (9) The President and members of the Council submit a declaration stating that for their nomination there are no obstacles with reference to the conflict of interest from paragraph 8 of this Article.

## **Council's affairs**

### **Article 10**

- (1) The Council shall be empowered to:
  - 1) adopt the Agency Statute and other general acts,
  - 2) adopt the annual programme of activities of the Agency,
  - 3) propose the Agency financial plan
  - 4) propose the annual work report and the annual statement of accounts,
  - 5) appoint and suspend the Agency Director with the prior consent of the Ministry based on public call;
  - 6) decide on other issues defined by this Law and the Agency Statute.
- (2) The Financial Plan of the Agency, annual work report and financial report of the Agency, in accordance with the Agency Statute.
- (3) The Council adopts the decision with the majority of votes of all members of the Council.
- (4) The members of the Council shall be entitled to a monthly remuneration for their work, paid out of the Agency budget in accordance with the Agency Statute.

## **Suspension of the President or member of the Council**

### **Article 11**

The Government shall suspend the appointment of the President and/or any member of the Council even prior to the expiration of his appointment if he:

- 1) submits a resignation;
- 2) is convicted for a criminal act, or for an act which makes him undeserving to perform the respective duties;
- 3) is performing his activities contrary to law, unprofessionally and conscientiously;
- 4) is behaving and working in the way to affect the reputation or work of the Agency;
- 5) permanently loses the capability to perform his duties;
- 6) does not comply with the conditions from Article 9 paragraph 8 of this Law.

### **Agency Director**

#### **Article 12**

- (1) The Agency is represented and managed by the Agency Director.
- (2) The Director shall be appointed for a period of four years and can be reappointed maximum two times successively.
- (3) The Director is subject to the provisions of Article 9 paragraph 7 and 8 of this Law.
- (4) The Council shall suspend the appointment of the Director even prior to the expiration of his appointment as stated in Article 11 of this Law.
- (5) The Director shall be responsible for his work to the Council.
- (6) In emergency situations, the Director shall make the necessary and reasonable measures as may be essential in the interest of safety in civil aviation to meet such emergency.

### **Agency Operations**

#### **Article 13**

(1) The funds for the conduct and development of the Agency activities shall be provided from:

1. income from the issuance of licences, certificates, confirmations, licences and annual fees in accordance with this Law;
2. part of the route and terminal charges defined in Article 112 paragraph 5 of this Law,
3. part of the charges paid by air carriers per tonne of cargo carried in civil air traffic,
4. part of the charges paid by all departing passengers in civil air traffic,
5. other sources in accordance with the law.

(2) The Agency shall prepare a report on its operations and the financial report for the previous year.

(3) The annual report on the operations of the Agency particularly contains data on:

1) undertaken measures in enforcing its competencies (on issued licences, permits, certificates, approvals, consents and other acts);

2) cooperation with international organizations and bodies of other states competent for civil aviation;

3) performing inspection oversight with reference to law enforcement and conclusion of international agreements;

4) other issues important for the work of the Agency.

(4) The Agency manages a separate accounting for the funds which are used to perform the work of public authority and safety and security of air traffic and income realized on this basis, and especially with reference to the funds for the performance of other operations of the Agency, in accordance with a special regulation.

(5) The Financial Report contains financial indicators of Agency operation and a description of separate accounting in accordance with paragraph 4 of this Article.

(6) The Agency delivers the annual financial report to the body of state administration competent for finance up to 31<sup>st</sup> March of the current year for the previous year.

(7) All the statement of accounts with reference to income and loss of the Agency are subject to an annual audit by an independent authorized auditor nominated by the Government in accordance with the law which regulates public procurement.

(8) The reports from paragraph 2 of this Article with the report of the independent authorized auditor are delivered by the Agency to the Government until 30<sup>th</sup> June of the current year for the previous year.

(9) The remuneration and manner of collection of remunerations from paragraph 1 items 3 and 4 of this Article are stipulated by the Ministry.

(10) The reports from paragraph 2 of this Article and the report of the independent authorized auditor are published on the Internet page of the Agency.

(11) The regulation from paragraph 4 of this Article is adopted by the Ministry with the consent of the state administration body competent for finance.

### **III. AIR TRAFFIC**

#### **Aircraft and flight rules**

##### **Article 14**

(1) In air traffic, an aircraft shall be operated in accordance with the type, the category and the intended use.

(2) The way, the flight rules and procedures of an aircraft, including air traffic services procedures, shall be determined by a regulation of the Agency and published in the way as is customary in air traffic.

(3) The provisions of the regulation from paragraph 2 of this Article shall also be applied as relevant on state aircraft if used for civil purposes.

(4) The way, the flight rules and procedures of Montenegrin military aircraft shall be stipulated by the state administrative body competent for defence with the consent of the Ministry.

(5) The conditions for safe use of unmanned aircraft and aircraft models and conditions which must be complied by the person flying such aircraft shall be determined by the act of the Agency.

(6) The aircraft being used in commercial operations and complex aircraft power driven shall have the Minimum Equipment List approved by the Agency.

(7) The way of making the Minimum Equipment list of the aircraft shall be determined by the act of the Agency.

### **Aircraft Landing and Taking Off in International Air Traffic**

#### **Article 15**

(1) An aircraft is allowed to land or take off in international air traffic only at international airports and exceptionally at other airports not designated for international air traffic, if the airport operator ensures, at his own expense, the implementation of the regulations on crossing of the state border.

(2) International airports from paragraph 1 of this Article are determined by the Government.

### **Flight Approval in the Airspace of Montenegro for Foreign Aircraft**

#### **Article 16**

(1) Foreign aircraft may operate in the airspace of Montenegro only based on an approval, unless it has been otherwise stipulated by an international agreement.

(2) Aircraft subject to an operating ban under the relevant EU *acquis communautaire* shall not be permitted to operate in the airspace of Montenegro.

(3) The approval according to paragraph 1 of this Article shall be issued:

1. for foreign state aircraft, by the state administrative body in charge of foreign affairs, with the consent of the state administrative body competent for defence affairs,
2. for foreign civil aircraft, by the Agency.

(4) The approval according to paragraph 1 of this Article may be:

1. approval for entry (flight),
2. approval for performing air transport (scheduled or non-scheduled).

(5) No approval by the Agency is needed for flights falling within the applicable scope of the ECAA Agreement, but the carriers are supposed to send notification of intended flight to the Agency.

(6) The list of air carriers from paragraph 2 of this Article shall be published on the Internet page of the Agency.

(7) The conditions and the way of issuing the approval from paragraph 1 of this Article shall be determined by the Ministry with the consent of the state administrative body competent for defence and foreign affairs.

### **Foreign Military Aircraft**

#### **Article 17**

(1) The regulation from Article 18 paragraph 2 of this Law shall be applied to a foreign military aircraft which obtains the approval according to Article 16. of this Law.

(2) The provisions of this Law and the regulations adopted on the basis of this Law which refer to civil aircraft shall apply to the foreign military aircraft which is not used for military purposes, and has the approval according to Article 16. of this Law.

### **Flights of State Aircraft**

#### **Article 18**

(1) State aircraft may operate in the airspace of Montenegro in accordance with the flight rules for general or operational air traffic.

(2) The flight rules and procedures of the aircraft referred to in paragraph 1 of this Article flying in accordance with the flight rules for operational air traffic shall be specified under a special regulation adopted by the state administrative body competent for defence with the consent of the Ministry.

### **Prohibited Areas and Restricted Flight Areas**

#### **Article 19**

(1) Temporary airspace reservations and/or temporary or permanent airspace restrictions in the airspace of Montenegro for air navigation safety purposes and the prevention of adverse effects of air navigation on people or property, search and rescue, and in case of severe natural disasters shall be determined by the Ministry with the consent of the state administrative body competent for defence.

(2) Temporary airspace reservations and/or temporary or permanent restrictions of Montenegro airspace for Montenegro defence purposes, shall be determined by the state administrative body competent for defence with the consent of the Ministry.

(3) Flying within the areas referred to in paragraphs 1 and 2 of this Article shall be allowed under the conditions and manner as specified, based upon proposals by the National Board for Airspace Management, in the case of paragraph 1 of this Article by the Ministry with the consent of the state administrative body competent for defence, and in the case of paragraph 2

of this Article by the state administrative body competent for defence with the consent of the Ministry.

(4) The air navigation service provider shall, upon written request by competent state administration entities or the Agency, temporarily ban or limit flying within a defined volume of airspace or at a defined airport, if this is required further to defence or national security interests, or the flight safety of one aircraft or group of aircraft, or in case of severe natural disasters, and other emergency situations.

(5) The air navigation service provider shall publish the temporary ban or limitation of flying from paragraph 4 of this Article as is customary in air traffic.

(6) The areas referred to in paragraphs 1 and 2 of this Article and the conditions and manner referred to in paragraph 3 of this Article, based on given information, shall be published by the air navigation service provider as is customary in air traffic.

### **Out-of-Airport Landing and Taking Off**

#### **Article 20**

(1) Airports, heliports and airfields shall be used for landing and taking off of aircraft,.

(2) Out-of-airport landing and take-off is the landing and take-off of aircraft outside of airports, heliports and airfields.

(3) An aircraft may take off and land outside of an airport only with the approval of the Agency.

(4) The approval under paragraph 4 of this Article is not necessary for aircraft:

1. for which the place of landing cannot be determined in advance due to their features,
2. which land in an emergency,
3. which provide emergency medical aid,
4. which take part in search and rescue operations,
5. in case of special activity flights,
6. for flights of military aircraft intended for training and exercise
7. in other cases if determined by a regulation adopted on the basis of this Law.

(6) For taking off of aircraft referred to in paragraph 5, item 2 of this Article, and of gliders, the approval of the Agency is required.

(7) Out-of-Airport landing and taking off is regulated by act of the Agency.

### **Special Activity Flights**

#### **Article 21**

(1) Flights of Montenegrin military aircraft for the purpose of protecting the sovereignty of Montenegro and flights of the aircraft of state administrative body competent for interior which operate for police-security purposes, shall be considered special activity flights.

(2) The operation of military aircraft flights from paragraph 1 of this Article is within the competence of the state administrative body responsible for defence.

(3) Flights of military aircraft from paragraph 1 of this Article shall have the priority before all other flights, except if flights for which the aircraft pilot had announced the state of emergency are in question, for which the state of emergency is evident, or which are threatened by unlawful interference or are the subject of such interference.

## **Aeronautical Shows**

### **Article 22**

(1) Public competitions or exhibitions in which aircraft participate (aeronautical shows) may be held only with the approval of the Agency.

(2) Public competitions or exhibitions in which only military, or military and civil aircraft participate, may be held only with the approval of the state administrative body competent for defence affairs and the Agency.

(3) The conditions for public competitions and exhibitions from paragraph 1 of this Article shall be determined by the Agency.

## **Conditions for Performing Air Transport in Air Traffic**

### **Article 23**

(1) Commercial air transport may be performed by a legal or natural person holding a valid operating licence and an Air Operator Certificate (hereinafter called: AOC) from the Agency in accordance with the provisions of this Law.

(2) Other commercial operations (including aerial work) may be performed by a legal or natural person holding a valid AOC certificate or approval issued by the Agency in accordance with the provisions of this Law.

## **Conditions for Issuing the Operating Licence**

### **Article 24**

(1) The Agency shall grant, at the request of a legal or natural person, an operating licence provided that:

- 1) the legal or natural person is registered with the Central Register of Commercial Entities (hereinafter called CRPS) for performing the air transport services, by itself or combined with other commercial operation of the aircraft or repair and maintenance of the aircraft;
- 2) its principal place of business is located in Montenegro;
- 3) it holds a valid AOC;
- 4) it has one or more aircraft at its disposal through ownership or a dry lease agreement;

- 5) has a company structure which allows the Agency the oversight with reference to the compliance of the stipulated conditions;
- 6) it is in majority ownership of Montenegro and/or its citizens and under their effective control, unless it is otherwise stipulated by the concluded international agreement;
- 7) it has provided the funds sufficient to cover the fixed costs and operating costs according to the business plan for the first three months from starting performing the commercial air transport;
- 8) has been able to fulfil its real and potential obligations which were realistically esteemed in the period of 24 months from starting performing commercial air transport;
- (9) has a liability insurance for the damage caused to passengers, baggage, cargo, mail , and third parties;
- (10) it complies with the stipulated provisions on good reputation, or no bankruptcy proceeding has been initiated and the accountable person was not convicted for any criminal act, or for any act which makes him/her inadequate for performing such function.

(2) The air carrier pays a fee to the Agency for determining compliance with the conditions of paragraph 1 of this Article and issuance of the Operating Licence.

(3) The fee from paragraph 2 is the income of the Agency.

(4) An Operating Licence shall not be issued for the air transport of passengers, cargo and/or mail operated by aircraft without power plant and/or ultra-light aircraft with engine, or for local flights which do not include the transport of passengers, mail and/or cargo between different airports.

(5) Detailed conditions from paragraph 1 items 5, 7, 8 and 9 of this Article, the manner of issuing and the form of Operating license as well as the amount of the fee from paragraph 2 of this Article are prescribed by the Ministry.

### **Submitting Evidence with the Application for the Issuance of Operating Licence**

#### **Article 25**

- (1) In addition to the application for the issuance of the Operating licence, the following evidence must be submitted:
  - 1) about the registration with the Central Register of the Commercial Court;
  - 2) AOC issued by the Agency;
  - 3) sales purchase agreement or lease;
  - 4) About the organisational structure or share in the capital (the Statute and AOC)
  - 5) Financial plan for at least the first three years of business operations, or financial plan in case it intends to perform other commercial activities;
  - 6) liability insurance for damage;
  - 7) that no bankruptcy proceeding was initiated, nor the accountable person was convicted.

(2) A legal or natural person intending to perform an activity with an aircraft which has a maximum take-off mass (MTOM) less than 10,000 kg and/or which has less than 20 seats, does not have to submit the evidence required by paragraph 1 item 5 of this Article, but has to demonstrate that its net capital amounts to at least 100,000 EUR or, at the request of the Agency, has to submit all the relevant data necessary for verifying the compliance of conditions of Article 24 paragraph 1, items 7 and 8 of this Law.

## **Validity of Operating Licence**

### **Article 26**

(1) The Operating Licence is issued for an indefinite time.

(2) The Agency shall perform a continuous oversight over the implementation of the conditions from Article 24 paragraph 1 of this Law, and regularly two years after issuing the new operating licence, as well as based on the founded suspicion of the Agency that the air carrier has financial difficulties in its business operation.

(3) The air carrier shall, at any time, at the request of the Agency, deliver the evidence that it complies with the conditions based on which it was issued the operating licence.

## **Suspension and Revocation of Operating Licence**

### **Article 27**

(1) Based on the continuous oversight of implementation of conditions in accordance with Article 24, paragraph 1 of this Law, the Agency can revoke or suspend an operating licence, provided it estimates that the air carrier cannot meet the existing and planned commitments in the period of 12 months.

(2) In the case of revoking the operating licence, the Agency can issue a temporary operating licence for a certain period and no more than 12 months, provided that:

- 1) air traffic safety is not jeopardized,
- 2) it is compliant with the eventual changes of AOC,
- 3) there is a realistic possibility of financial recovery of the air carrier business operations in a certain period.

(3) The Agency shall revoke the operating licence to an air carrier which:

- 1) does not initiate performing the air services within 6 months from the issuance of the operating licence,
- 2) does not perform the air transport for more than 6 months,
- 3) has the intention of performing the air transport with aircraft which do not meet the stipulated conditions with reference to the dimensions, mass, capacity and financial equities,
- (4) Detailed conditions for revocation and suspension of an operating licence shall be determined by the Ministry.

## **Publishing in the Official Gazette**

### **Article 28**

The act of the Agency based on which the operating licence is issued, suspended or revoked is being published in the “Official Gazette of Montenegro”.

## **Air Operator Certificate**

### **Article 29**

(1) An AOC can be issued to the legal or natural person i.e. state body which meets the conditions with reference to the equipment, professional capability, organisational structure, operation manuals approved by the Agency and other conditions which provide a safe operation it intends to perform.

(2) Rights and duties granted to the operator and the scope of the operations shall be specified in the AOC.

(3) The Agency shall issue the AOC on a period of 12 months to the operator which submits the request.

(4) At the request of AOC holder, the Agency may extend the validity of an AOC for a period of one to three years.

(5) If the Agency deems on the basis of its continuous oversight that the operator from paragraph 1 of this Article ceases to meet some of the conditions necessary for the issuance of an AOC, the Agency shall amend, suspend or revoke the AOC.

(6) Specific charges are paid to the Agency for the stipulated procedure when replying to the request for issuance, extension of validity or amendment of AOC, and for continuous oversight.

(7) Funds for the fee from paragraph 6 of this Article shall be the income of the Agency.

(8) Detailed conditions from paragraph 1 and 5 of this Article, the conditions and way of offering aerial services from Article 23 paragraph 2 of this Law, types of aerial services, measurers which determine the time for the extension of AOC validity, AOC form and the amount of the fee from paragraph 6 of this Article shall be defined by the Ministry.

## **Operating Licence and AOC**

### **Article 30**

(1) In accordance with its official duty, the Agency shall suspend or revoke the operating licence if the AOC of the operator in commercial operations is suspended or revoked.

(2) Where the AOC is amended, depending on circumstances, the Agency is committed to amend also the operating licence to the operator in commercial operation.

## **Lease of Aircraft**

### **Article 31**

(1) Aircraft can be leased with or without the crew.

- (2) An air carrier commits to obtain from the Agency consent for concluding a lease agreement before leasing the aircraft.
- (3) When an air carrier from Montenegro leases an aircraft to a foreign air carrier, it is committed to obtain the consent of the Agency only if the aircraft is leased without the crew.
- (4) The aircraft lease agreement must contain provisions about the type of lease, conditions for maintenance and use of aircraft and supervision over the use of the aircraft.
- (5) Further conditions under which the above mentioned consent is granted for concluding the aircraft lease agreement shall be determined by the Agency.

### **Operators Engaged in Non-Commercial Operations**

#### **Article 32**

- (1) Operators engaged in non-commercial operations of complex motor-powered aircraft can be a legal or natural person i.e. state body which meets the conditions with reference to the equipment, professional capability, approved operation manuals and organisational structure which provides for safe air operation that the operator intends to perform.
- (2) The operator demonstrates ability to meet the conditions of paragraph 1 of this Article by a declaration of its capability and means to discharge the responsibilities concerning the operation of the aircraft from paragraph 1 of this Article.
- (3) An operator in non-commercial operations which are not performed by complex motor-powered aircraft may be a legal or natural person which is not obliged to give the declaration from paragraph 2 of this Article to perform the air service, if the aircraft meets the stipulated requirements for airworthiness of aircraft, and if the personnel hold a relevant licence and meet the stipulated requirements in accordance with this Law.
- (4) For continuous inspection of meeting the requirements of aircraft operators from paragraph 1 and 3 of this Article the annual fee is collected.
- (5) The funds collected from paragraph 4 of this Article shall be the income of the Agency.
- (6) Content, form of the statement, documentation enclosed with the statement and the amount of the fee from paragraph 4 shall be defined by thy Ministry.

### **Unauthorised Advertising and Provision of Services**

#### **Article 33**

Commercial air transport and other commercial activities according to Article 23 of this Law may be advertised and performed only by a legal or natural person registered for performing those activities having the operating licence and/or an AOC.

### **International Air Services and Cabotage**

#### **Article 34**

(1) International scheduled air services may be performed by a Montenegrin air carrier which, except for conditions set out in Article 23 paragraph 1 of the Law, also complies with the conditions stipulated by international agreements, and other international documents which stipulate safe and orderly performing of international scheduled air transport.

(2) A foreign air carrier may perform transport in international air transport with Montenegro in accordance with:

- 1) the ECAA Agreement,
- 2) concluded international agreements binding on Montenegro, or
- 3) conditions of the approval for performing of transport.

(3) A foreign air carrier may perform air transport between airports within Montenegro (cabotage) in accordance with the ECAA Agreement.

(4) The Agency may approve a foreign air carrier to perform air transport between airports within Montenegro (cabotage) in accordance with international agreements binding on Montenegro.

### **Establishing Scheduled Air Transport**

#### **Article 35**

A Montenegrin air carrier decides on establishing scheduled air transport within Montenegro, while in international air traffic scheduled air transport may be established in accordance with the concluded international agreements.

### **Flight Schedule**

#### **Article 36**

(1) For non-ECAA flights the flight schedule and its modifications are determined separately for the summer and winter traffic periods, and they are approved by the Agency, with the previously obtained consent from the airport operator.

(2) Air carriers shall publish the approved flight schedule from paragraph 1 of this Article at the latest fifteen days before its entering into force for a specific traffic period, and modifications of the flight schedule, in principle, at the latest ten days before the date of effectiveness of those modifications.

(3) Exceptionally from paragraph 2 of this Article, the term for publication of a modification of the flight schedule may be shorter, about which the air carrier is obliged to give a notification immediately either via electronic or press media.

(4) The flight schedule and modifications of flight schedule from paragraphs 2 and 3 of this Article shall be published in at least two electronic and two daily printed media in Montenegro.

### **Public Service Obligation (PSO)**

#### **Article 37**

(1) In cases where the air carrier would not have a commercial interest in providing air services on a specific route, and if that route is considered vital for the economic and social development of a specific region, the Government can impose a public service obligation (PSO) on that route.

(2) Conditions for performing public service obligation shall be stipulated by the Government.

### **Determination of Prices**

#### **Article 38**

(1) An air carrier may freely determine the prices for the carriage of passengers, baggage, cargo and/or mail on a scheduled air service.

(2) The air carrier shall publish on tickets or in any other manner state the total price which consists of the price for the carriage of passengers, baggage, cargo and mail, airport charges, taxes and other costs which are being paid in addition to the price for carriage.

## **IV. AIRPORTS**

### **General Conditions for the Use of Airport**

#### **Article 39**

An airport can be operated in air traffic if it has an operating permit issued in accordance with the regulations regarding the construction of facilities and if the airport operator has approval for the use of the airport or airport certificate issued by the Agency.

#### **Airport Certificate**

#### **Article 40**

(1) An airport certificate is issued by the Agency to the airport operator for an airport used for offering air transport services and performing IFR arrival and departure operations, if it has:

- 1) asphalt runway longer than 800 metres or
- 2) is solely used for helicopter flying.

(2) The airport certificate is issued to the airport operator if it has the approved Airport Manual, Airport Safety Manual and the Airport Air Traffic Security Program.

(3) The Manuals and Programme from paragraph 2 of this Article are approved by the Agency.

(4) A charge shall be paid for the procedure of determining the compliance of conditions for the issuance or extension of validity of an airport certificate.

(5) Airport certificate shall be cancelled by the Agency if the airport operator ceases to comply with some of the conditions based on which the certificate was issued or temporarily suspend the certificate until it complies with conditions for which the certificate was temporarily suspended.

(6) Funds from fees from paragraph 4 of this Article shall be the income of the Agency.

(7) Detailed conditions of paragraph 1 of this Article, documentation which is being submitted for the issuance, way of issuance, cancellation, temporary suspension and amendments of airport certificate, contents of the airport manuals, the method of issuance of an airport certificate, the amount of the charge according to paragraph 4 of this Article are stipulated by the Ministry.

## **Approval for the Use of Airport**

### **Article 41**

(1) Approval for the use of airport is issued by the Agency to the airport operator for airports which have less than 10 000 passengers annually and less than 850 operations of cargo transport annually that has the instruction on the use of airport approved by the Agency and that meets other requirements.

(2) To issue the approval for the use of airport the fee shall be paid and annual fee as well for continuous oversight of conditions fulfilment.

(3) Funds from fees from paragraph 2 of this Article shall be the income of the Agency.

(4) Approval for the use of Airport shall be cancelled by the Agency if the airport operator ceases to comply with some of the conditions based on which the approval was issued or temporarily suspend the approval until it complies with conditions for which the approval was temporarily suspended.

(5) Other conditions from paragraph 1 of this Article and documentation which is being submitted for the issuance of approval, the way of issuance, cancellation, temporary suspension and the amendment of the approval for the use of airport, content of the instructions to use the airport and the amount of the fee from paragraph 2 of this Article shall be prescribed by the Ministry.

## **Design, Construction, Reconstruction and Marking of Airport**

### **Article 42**

(1) An airport shall be constructed in a way to comply with the conditions which make possible safe take-off, landing and movement of all or only certain types of aircraft.

(2) The design, construction, reconstruction and marking of the airport, movement areas, facilities for handling of aircraft, passengers, baggage, cargo and/or mail and other facilities which make possible a safe take-off, landing and movement of aircraft at an airport, is performed in accordance with the regulations which regulate land planning and design in accordance with the provisions of this Law.

(3) The Agency gives approval for technical documentation for construction, reconstruction and marking the airport, operating areas and other objects from paragraph 2 of this Article.

(4) Before starting work on facilities described in paragraph 2 of this Article, for the safety of air traffic and the regularity of air transport in air traffic, the airport operator commits to obtain special approval issued by the Agency.

(5) If the functions of facilities described in paragraph 4 of this Article are within the competence of state administration bodies in charge of defence affairs and interior, the Agency shall issue a separate approval with the previously obtained consent of the said bodies.

(6) A charge, which is the income of the Agency, shall be imposed for acting upon request to issue an approval relating to paragraphs 4 and 5 of this Article.

(7) The amount of the charge referred to in paragraph 6 of this Article shall be determined by the Ministry.

### **Reporting on Changes**

#### **Article 43**

(1) An airport operator commits, with reference to a planned change of purpose or category, or planned major works which can lead to the closing of the airport or limiting its use, to inform the Ministry, the Agency, aircraft operators and air navigation service providers, at the latest 60 days before starting with works; or at the latest 48 hours before starting works, if minor works are planned which may limit the use of movement areas.

(2) For performing major works, for limiting the use or closing of an international airport, the airport operator must receive the previous consent of the Agency.

(3) Changes as per paragraph 1 of this Article are published as is customary in air transport.

(4) With reference to sudden changes of already published data from paragraph 1 of this Article, the airport operator commits to inform the Ministry, the Agency and air navigation service provider, immediately after the change, stating the contents and time duration of such changes.

### **Aeronautical Obstacles**

#### **Article 44**

(1) An aeronautical obstacle, further to this Law, is a fixed (temporary or permanent) or movable object or its part, situated in the area intended for movement of aircraft on the ground or a facility protruding into areas intended for protection of aircraft in flight, or an object located outside the defined areas, in accordance with the international standards and recommended practice, which is potentially risky for a flight.

(2) The construction and placing of aeronautical obstacles on the territory of an airport, including objects and technical means of air navigation, or aeronautical obstacles outside an airport area which can influence the safety of air traffic, as well as their marking and maintenance, shall be performed in accordance with the regulation from paragraph 8 of this Article.

(3) Approval for the construction and placing of aeronautical obstacles outside airport areas (areas restricted for construction) according to paragraph 2 of this Article, which exceeds the stipulated height, shall be issued by the Agency.

(4) Aeronautical obstacles from paragraph 2 from this Article have to be marked to be visible during the day, night and in the conditions of reduced visibility.

(5) The signs for distinguishing aeronautical obstacles according to paragraph 2 of this Article, shall be placed and maintained by:

- 1) the owner of the aeronautical obstacle, if the aeronautical obstacle was constructed after the construction of the airport or if the aeronautical obstacle is located outside the airport area;
- 2) the airport operator, if the airport is constructed in the vicinity of an aeronautical obstacle;
- 3) the owner of the aeronautical obstacle, if the aeronautical obstacle is movable.

(6) A charge shall be collected by the Agency for the issuance of the approval for construction and placing the aeronautical obstacles on the airport area, including objects and technical means of air navigation, as well as for aeronautical obstacles outside the airport area (area of restricted construction).

(7) The amount of the fee referred to in paragraph 6 of this Article shall be stipulated by the Ministry.

(8) The width of the protection belt and the area of restricted construction, the conditions and way of construction and placing aeronautical obstacles as per paragraph 2 of this Article, shall be stipulated by the Ministry with the consent of the state administrative body competent for town planning.

## **Airport Maintenance**

### **Article 45**

(1) The airport operator commits to providing maintenance and oversight of movement areas, facilities, installations, devices and equipment at airports, and to undertake all the measures necessary for safe aircraft operations and handling of aircraft, passengers, baggage, cargo and/or mail.

(2) Personnel performing maintenance and oversight activities relating to the movement area, facilities, installations, devices and equipment at an airport according to paragraph 1 of this Article must be professionally trained, medically fit and comply with other stipulated conditions.

(3) Professional training of personnel from paragraph 2 of this Article may be performed by a legal or natural person who complies with the condition regarding staff and equipment, authorized by the Agency, in accordance with the training programme approved by the Agency.

(4) The way of maintenance and oversight of the movement area, facilities, installations, devices and equipment at an airport, and the conditions from paragraph 2 of this Article shall be defined by the act of the Agency.

## **Airport Classification**

### **Article 46**

- (1) Airports can be military or civil ones.
- (2) A military airport is an airport the management of which is under the competence of the state administrative body in charge of defence affairs.
- (3) A civil airport is an airport used for civil air traffic.
- (4) Civil airports can be controlled or uncontrolled airports.
- (5) A controlled airport, under this Law, is an airport where air traffic control is performed for airport traffic.
- (6) An uncontrolled airport is an airport where air traffic control is not performed for airport traffic.
- (7) An uncontrolled airport may also be considered as a controlled airport beyond the working hours of the competent airport air traffic control.

## **Classes, Groups and Categories of Airports**

### **Article 47**

- (1) By their physical features and equipment of the main runway and taxiways, and the level of rescue and fire fighting protection, airports are classified into classes, groups and categories.
- (2) The airport class and group is determined according to the length and width of the main runway and the width of the taxiways; or according to the length, width or depth of the water surface determined for taking-off and landing of aircraft.
- (3) The airport category is determined according to the level of equipment for the main runway, the devices and means of approach, the equipment for taxiways, and according to other appliances and means used for safe and secure take-off, landing and movement, as well as according to the level of rescue and fire-fighting protection.
- (4) The class, group and category of airports shall be determined by the Agency.
- (5) Detailed conditions to determine the classes, groups and categories of airports are stipulated by the Agency.

## **Use of Military Airport for Civil Air Traffic**

### **Article 48**

- (1) A military airport or a part of a military airport which complies with the stipulated conditions of this Law may be used for performing civil air transport, under the conditions and in the way determined by a contract between the state administrative body in charge of defence affairs and the operator of a civil airport, with the consent of the Agency.
- (2) A contract under paragraph 1 of this Article stipulates the runways and taxiways, aprons, devices and other parts of a military airport which can be used for civil aviation purposes, also

the way of using and the conditions of maintaining a military airport or its particular parts, devices or means, and the mutual rights and obligations of the contracting parties.

(3) The state administrative body in charge of defence affairs shall issue the approval to the aircraft operator for use of a military airport, or a part of a military airport for particular civil flights.

### **Use of Civil Airport for Military Air Traffic**

#### **Article 49**

A civil airport, or a part of a civil airport, may be used for performing military air transport, under the conditions and in the way which are determined by a contract between the operator of a civil airport and the state administrative body in charge of defence affairs, with the consent of the Agency.

### **Airports for non-commercial operations of aircraft and airfields**

#### **Article 50**

(1) An aircraft by which taxi-transport or panoramic flights are performed, may also use for landing and taking-off the airports for non-commercial air operations and airfields, in accordance with approval of the Agency for the use of such airports.

(2) Airport Flight Information Service (AFIS) at the airports for non-commercial operations of aircraft and airfield where these services are provided, shall be performed by a legal or natural person having the Certificate of the Agency for performing these services and determined by the airport operator.

(3) Airport Flight Information Service provider shall directly cooperate with the closest competent air traffic control.

(4) The conditions to receive the Certificate from paragraph 2 of this Article and the way of offering flight information services shall be determined by a regulation of the Agency.

### **Obligations of Airport Operator**

#### **Article 51**

(1) The airport operator is obliged to enable undisturbed use of movement areas, facilities, devices and equipment according to their intended use and capacity, in accordance with the provisions of this Law and act of the Agency.

(2) The criteria and standards for an undisturbed use of movement areas, facilities, devices and equipment at the airport shall be determined by the act of the Agency.

### **Expanding and Limiting Airport Capacity**

#### **Article 52**

(1) The airport operator shall decide on expanding and limiting airport capacity in accordance with the air operators which use airport services and with air navigation service providers.

(2) The conditions and way of expanding or limiting airport capacity, schedule facilitation, slot allocation are determined by the technical regulation of the Agency.

## **Airport Services**

### **Article 53**

(1) Each airport shall provide a rescue and fire fighting service as well as emergency or first aid, and at transport service airports services for handling of aircraft, passengers, baggage, cargo and/or mail and other handling services, must be provided.

(2) Handling of aircraft, passengers and baggage, cargo and mail and other ground handling services may be delegated to other legal and natural persons under the stipulated conditions of this Law, and in accordance with the Law which regulates the public procurement.

(3) The airport operator shall provide the rescue and fire fighting service as well as emergency aid.

(4) Operations from paragraph 1 of this Article must be carried out during the airport operating hours.

(5) The personnel carrying out the operations of rescue and fire fighting service and operations of handling of aircraft, passengers and baggage, cargo and mail, under paragraph 1 of this Article, must be vocationally trained and medically fit and must comply with other stipulated conditions.

(6) The professional training of personnel from paragraph 5 of this Article may be performed by a legal or natural person complying with the conditions of staff and equipment, authorized by the Agency, in accordance with the training programmes approved by the Agency.

(7) The way and conditions of offering services from paragraph 1 of this Article and detailed conditions from paragraph 5 and 6 of this Article shall be determined by the act of the Agency.

## **Ground Handling**

### **Article 54**

(1) At airports used for commercial air traffic, the airport operator shall provide the ground handling services.

(2) The ground handling services are as follows:

- 1) Handling of aircraft, passengers, baggage, cargo and/or mail;
- 2) Handling of aircraft;
- 3) Aircraft fuelling and lubricating;
- 4) Pre-flight check of aircraft (line maintenance);
- 5) Transport of passengers and crew from the aircraft and to the aircraft;
- 6) Supplying the aircraft with food and drink;
- 7) Flight preparation and services for crew;
- 8) Management and control of airport.

(3) The service provider for the handling of passengers has an obligation to provide these services to disabled passengers and passengers with reduced mobility, in the way which allows such persons to be transported in air traffic equally and without being discriminated against.

(4) Ground handling services can be offered by the airport operator, or legal or natural person having a licence for offering ground handling services.

(5) An aircraft operator independently decides with which ground handling service provider it will conclude an agreement on rendering ground handling services.

(6) A licence for rendering ground handling services shall be issued to a natural or legal person which complies with the conditions of personnel and equipment by the Agency for a specified time.

(7) The air carrier can perform for its own needs one or more ground handling services (hereinafter called self-service), based on a licence issued by the Agency.

(8) The ground handling service provider or self-service shall conclude an agreement with the airport operator about the charge for using the airport infrastructure.

(9) For the issuance of licence under paragraph 6 and 7 of this Article a charge shall be imposed which is the income of the Agency.

(10) The detailed conditions from paragraph 6 and 7 of this Article and way of offering services of ground handling and types of ground handling services which must be rendered at an airport used for commercial air transport, conditions under which the permit for providing ground handling services and permit for self handling is issued, amended or temporarily suspended, time period for which these permits are issued, form of permits, services for which the number of its providers may be limited, conditions under which certain service may be excepted from self handling, conditions under which the number of service providers may be limited, criteria and procedure of electing service providers and conditions under which the number of air carriers is limited who have the right to self handling, shall be determined by the act of the Agency.

(11) The amount of the charge from paragraph 9 of this Article, shall be determined by the Ministry.

## **Airport Operational Hours**

### **Article 55**

(1) Airport operational hours are the time in which, depending on traffic and conditions at the airport, an airport must be open for air traffic.

(2) An aircraft may land and take off beyond the operational hours of the airport only with the previous consent of the airport operator.

(3) Consent under paragraph 2 of this Article is not necessary for landing and taking off the aircraft under Article 20 paragraph 5 of this Law, except for aircraft from point 6 of this Law.

(4) The operational hours of the airport are determined by the Ministry at the proposal of the airport operator and published in the way customary in air traffic.

## **Airport charges**

### **Article 56**

(1) For the provided service in air traffic, the airport operator is entitled to compensation for the following:

- 1) handling of aircraft, passengers, luggage, cargo and/or mail;
- 2) serving passengers and aircraft;
- 3) use of airport infrastructure;
- 4) landing and parking of aircraft;
- 5) services of illumination of manoeuvring areas in the conditions of reduced visibility;
- 6) services of land administration and supervision;
- 7) airport service.

(2) The level of the airport charges depending on the quality of service provided shall be determined by the airport operator on a non-discriminatory basis, after consultation with the airport users.

(3) The amount of the charge for a particular service shall be determined by the airport operator on the basis of allocated costs.

(4) The following shall be exempt from airport and user charges:

- 1) aircraft involved in search and rescue operations,
- 2) aircraft used for humanitarian assistance in case of a natural disaster or state of emergency,
- 3) aircraft in distress
- 4) state aircraft and foreign state aircraft under conditions of reciprocity.

(5) The airport charges price list shall be determined by the airport operator, with the previous consent of the Ministry.

(6) The airport operator is obliged to advise all airport users which use its services of the amount and reasons of the charges change, not later than 60 days before the planned due date for the payment for the said services.

(7) At least once a year, the airport operators have to deliver to the Ministry and the Agency, information about the collection of fees determined by the price list under paragraph 5 of this Article.

(8) The criteria and methodology to determine the amount of airport fees and detailed determination of services from paragraph 1 of this Article is stipulated by the Ministry.

## **Airport Registry and Record-Keeping of Surfaces of Out-Of Airport Landings and Take-Offs**

### **Article 57**

- (1) An airport registry and record-keeping of surfaces of out-of-airport landings and take-offs shall be kept by the Agency.
- (2) The registry and records kept under paragraph 1 of this Article are open to the public.
- (3) The Registry contains the data on purpose, class and category of the airport, name and seat of the owner and airport operator and other data as well.
- (4) The contents and way of keeping the registry and record-keeping under paragraph 1 of this Article are stipulated by the Agency.

## **National Facilitation Committee**

### **Article 58**

- (1) For the purpose of coordinating the realisation of the National Facilitation Programme for Air Traffic (hereinafter called: the Facilitation Programme) and advising recommendations for the promotion of measures, activities and technological procedures which facilitate the performance of international air traffic and the flow of passengers, baggage, cargo and mail, the Government shall establish a National Facilitation Committee for Air Traffic (hereinafter called: the Facilitation Committee).
- (2) The Facilitation Committee:
  1. proposes Facilitation Programme
  2. submits annual report on the implementation of Facilitation program to the Government by 31<sup>st</sup> March of current year for the previous year;
  3. proposes the implementation of measures and activities to facilitate the performance of international air traffic and flow of passengers, cargo and/or mail;
  4. performs other affairs in accordance with the facilitation program.
- (3) Facilitation Committee has seven members.
- (4) Members of the Facilitation Committee shall be representatives of the Ministry and the ministries in charge of foreign affairs, economy, tourism, finance, representatives of the Agency and of the administrative bodies in charge of interior and customs
- (5) Members of the Local Facilitation Committee shall also be representatives of entities which are involved in the affairs of health, and agriculture and airport and aircraft operators.
- (6) In the Articles of Association the term of office and other issues of importance for the work of Facilitation Committee are defined.
- (7) Articles of association shall be published in the "Official Gazette of Montenegro".

## **Local Facilitation Committee**

## **Article 59**

- (1) To perform the operations from Article 58 paragraph 1 of this Law, airport operator on each airport for commercial air traffic shall establish Local Facilitation committee.
- (2) Facilitation Committee shall give approval to the election of members of Local Facilitation committee.
- (3) In addition to the airport operator, the following persons may be appointed members of Local Facilitation Committee: representative of the state administration body competent for police affairs, representative of administration body responsible for customs affairs and other entities included in the implementation of measures which facilitate the performance of international air traffic and flow of passengers, luggage, cargo and/or mail.
- (4) Scope of activities, detailed composition, term of office and the manner of operations of Local Facilitation Committee shall be defined by the Articles of association.

## **Facilitation Programme**

### **Article 60**

- (1) **The** Facilitation Programme is adopted by the Government at the proposal of the Facilitation Committee.
- (2) The Facilitation Programme contains measures, activities and technological procedures which facilitate the operation of the international air transport and expedites the flow of passengers, baggage, cargo and mail.
- (3) The Agency shall monitor the implementation of the Facilitation Programme and submit to the Facilitation Committee the report on the implementation of operational measures from the Facilitation Programme.

## **V. ENTERING INTO CIVIL AIRCRAFT REGISTRY OF MONTENEGRO, NATIONAL AFFILIATION AND REGISTRATION MARKS OF AIRCRAFT**

### **General conditions of Civil Aircraft Registry**

#### **Article 61**

- (1) Each aircraft shall be registered.
- (2) An aircraft may be registered:
  - a) if it is not registered in a foreign state or in a military register; and
  - b) if it is owned and/or operated by a person who is a national of Montenegro or another ECAA contracting party, or with the seat and/or residence in Montenegro or in another ECAA contracting party.
- (3) An aircraft not registered in the Registry, military register or the registry of some other state cannot operate in the airspace of Montenegro.

(4) The aircraft operator or the owner of aircraft types lighter than 20 kg, paragliders with no engine and parachutes shall not be registered.

(5) Applications for entering in the Registry shall be submitted by the owner of the aircraft or by the aircraft operator with the consent of the owner.

(6) An aircraft may be entered in the Registry only if it complies with the conditions for safe air navigation i.e. if it is airworthy.

(7) If an aircraft has already been entered in a foreign or in the military registry of aircraft, it may be entered in the Registry only if the evidence is submitted that it has been cancelled from the other register.

(8) For entering in or removal from the Registry a stipulated charge shall be paid to the Agency and is the income of the Agency.

(9) Detailed conditions of the request from paragraph 5 of this Article and the documentation submitted with the request for the inscription in the Registry and the amount of the fee under paragraph 8 of this Article are prescribed by the Ministry.

### **Temporary Entry in the Registry**

#### **Article 62**

(1) An aircraft may be temporarily entered in the Registry:

- 1) if the aircraft was bought and type-approved abroad,
- 2) if it is a type-approved aircraft built in Montenegro which is delivered to a foreign operator,
- 3) if the aircraft was built in Montenegro which is not type-approved, for the purpose of examination and ascertaining of its flight capabilities and technical features (technical requirements for airworthiness), if it meets the conditions for safe air navigation.

(2) Aircraft under paragraph 1 of this Article may be temporarily entered in the Register at the longest for twelve months.

### **Registry Entry of Leased Aircraft**

#### **Article 63**

(1) A foreign aircraft which is leased to a natural person with residence in Montenegro or to a legal person with seat in Montenegro, must be entered in the Registry at the latest upon the expiry of six months from the day when such an aircraft was delivered to Montenegro.

(2) For the aircraft under paragraph 1 of this Article, until entered in the Registry, the provisions of this Law which refer to air traffic safety shall apply.

(3) A Montenegrin aircraft which was given into lease to a foreign natural or legal person for the purpose of performing air traffic abroad, may be entered in a foreign registry, in accordance with the regulations of the state of the lessee.

(4) If, according to the regulations of the state of the lessee it is not possible to enter the aircraft referred to under paragraph 3 of this Article, it shall be kept in the Registry as an aircraft given into lease abroad.

### **Certificates on registration**

#### **Article 64**

- (1) Entering into the Registry is performed with the decision on entering in the Registry.
- (2) The Agency issues the confirmation on registration to the applicant for entering into the Registry.
- (3) The confirmation from paragraph 2 of this Article is issued for temporary entering into the Registry.

### **Terms and Modifications of Entered Details**

#### **Article 65**

- (1) The owner, or the aircraft operator with the consent of the owner, is obliged to report to the Agency every modification of the details entered in the Registry arising within the term of fifteen days from the date of modification.
- (2) Each modification of the details from paragraph 1 of this Article is entered into register, and a confirmation is issued respectively.

### **Removal from Registry**

#### **Article 66**

- (1) A registered aircraft shall be removed from the Registry:
  - 1) at the request of the owner, or operator of the aircraft with the consent of the owner,
  - 2) by official duty, when it no longer meets the conditions of this Law, or
  - 3) when it has been missing for more than three months and search and rescue have been completed, if it has been destroyed, permanently unserviceable, completely inaccessible or if the confirmation on the airworthiness check has not been issued for more than ten years.
- (2) The Agency shall by resolution decide on the removal of the aircraft from the Registry and issues a confirmation on deregistration of such aircraft.
- (3) An aircraft for which a liability is entered in the liability sheet may not be cancelled from the Registry without the consent of the authorised person for the entered liability or without a decision of the competent court.

### **Data Entered into the Registry**

#### **Article 67**

- (1) Data about the aircraft, operator and owner of the aircraft and liabilities on the aircraft are entered into the Registry.
- (2) The Registry is composed of entry, ownership and liabilities list.

- (3) Data about the aircraft, aircraft operator and other data are entered into the entry list of the Registry, based on the decision on entering the data adopted by the Agency.
- (4) Data about the ownership of the aircraft and other data are entered into the ownership list of the Registry, based on real evidence of gained ownership.
- (5) Data about the holder and basis of lien and other data are entered into the liability sheet of the Registry, based on real evidence of the existing liability or the decision of the competent court.
- (6) Details about the contents, method of keeping and the form of the Registry shall be determined by the Ministry.

## **The Registry**

### **Article 68**

- (1) The Registry is kept by the Agency.
- (2) The Registry is a public book.
- (3) For the excerpt from the Registry the charge is paid which is the income of the Agency.
- (4) The amount of the charge from paragraph 3 of this Article is defined by the Ministry.

## **Transfer of responsibilities**

### **Article 69**

- (1) When the aircraft entered in the Registry is operated in a foreign state in accordance with a lease, charter or other agreement, the Government of Montenegro may, in accordance with the Chicago Convention, conclude an agreement with that state by which, all or some of the oversight rights are transferred to it, or all or some of obligations which it has with reference to the aircraft as the state of registration are transferred, after which Montenegro is no longer responsible for exercising the rights and fulfilling obligations which were transferred.
- (2) When the aircraft is registered in a foreign state, and is operated in Montenegro based on a lease, charter or some other agreement, the state of aircraft registration may, in accordance with the Chicago Convention, and further to the agreement with the Government of Montenegro, transfer to Montenegro all or some of oversight rights, or transfer all or some of obligations which the aviation authorities of the foreign state have with reference to the aircraft, and with this Montenegro takes over the responsibility for exercising rights and fulfilling the obligations which were transferred.
- (3) The agreement about the transfer of responsibility can be concluded only with the state member of the ICAO and is subject to the registration with the competent body of ICAO.
- (4) Airworthiness documents, permissions for radio stations and the licences and certificates of crew members issued by the state to which the responsibility was transferred are recognised as if they were issued by the state which transferred the responsibility.

## **National Affiliation and Registration Marks**

### **Article 70**

- (1) Aircraft which are entered in the Registry have affiliation with Montenegro and are obliged to bear the designations of national affiliation and registration marks in accordance with the provisions of this Law.
- (2) The insignia of national affiliation of the aircraft from paragraph 1 of this Article are the flag of Montenegro and designation "4O" printed before the registration mark.
- (3) Registration mark consists of three letters (Latin) chosen from English alphabet from "A" to "Z".
- (4) Montenegrin military aircraft have affiliation with Montenegro and are obliged to bear the designations of national affiliation and registration marks determined by the regulation of the state administrative body competent for defence.
- (5) Registration marks, the place and way of attaching registration marks and the designation of national affiliation under paragraph 1 and 2 of this Article are stipulated by the Ministry.

## **National Affiliation and Registration Marks of Foreign Aircraft**

### **Article 71**

During a flight in the airspace of Montenegro, a foreign aircraft must bear the insignia of national affiliation and registration designations determined by the regulation of the state of registration of that aircraft or designations anticipated by an international agreement.

## **Safe Operation and Capability of Aircraft**

### **Article 72**

- (1) Aircraft must have a certificate of airworthiness and a certificate of release to service which must be located in the aircraft cabin.
- (2) Air operators must keep aircraft registered and/or operated in Montenegro in an airworthy condition.
- (3) The owner or aircraft operator has to check the airworthy condition of the aircraft before each flight.
- (4) The owner or aircraft operator bears responsibility for the continuing airworthiness and maintenance of aircraft registered and/or operating in Montenegro.
- (5) The manner of determining the capacity of aircraft for safe air navigation shall be defined by the act of the Agency.

## **Conditions for Use of Aircraft**

### **Article 73**

- (1) Aircraft may be used only according to the type certificate which contains data from the type certificate data sheet.

(2) The aircraft having the type certificate from paragraph 1 of this Article shall be used in accordance with the approved flight manual.

(3) The conditions and the way of use of the aircraft depending on the type, the category and the intended use, and aircraft components which must be installed in the aircraft, shall be determined by Agency regulation.

(4) A Montenegrin military aircraft which is used for flights for civil purposes, must comply with the technical requirements for airworthiness anticipated by this Law and the regulations adopted on the basis of paragraph 2 of this Article.

(5) As an exception from paragraph 1 of this Article aircraft not having the type certificate and type certificate data sheet may be used only in the airspace of Montenegro in accordance with the approval of the Agency.

### **Design, Production, Modification and Repair**

#### **Article 74**

(1) Design, production, repair and modification of an aircraft or aircraft component shall be carried out according to the act of the Agency.

(2) A legal or natural person may perform the affairs from paragraph 1 of this Article that meets the requirements regarding the equipment and human resources defined by the act of the Agency.

(3) Fulfilment of conditions from paragraph 2 of this Article is defined by the Agency and it issues the certification on fulfilling the conditions unless otherwise stipulated by concluded international agreement.

(4) For ascertaining compliance with the conditions for issuing of the certificate under paragraph 3 of this Article, a stipulated fee paid to the Agency shall be charged.

(5) For continuous oversight in order to establish the compliance of stipulated conditions from paragraph 1 of this Article, an annual charge shall be imposed and paid to the Agency

(6) The amount of the charges under paragraph 4 and 5 of this Article shall be determined by the Ministry.

### **Obligation of Type Approval for Aircraft and Aircraft Components**

#### **Article 75**

(1) A new type of aircraft and an aircraft component, shall be subject to the procedure of type approval (flying, structure, design and construction, engine, equipment and parts, operational limitation and information and similar) design and construction, engine, equipment and parts for the purpose of ascertaining compliance with the technical requirements for airworthiness in accordance with the act of the Agency.

(2) The certification procedure for the purpose of type-approval of a new type of aircraft and aircraft component shall be carried out in accordance with a regulation determined by the Agency.

- (3) Aircraft type approvals and component approvals as well from paragraph 1 of this Article are issued by the Agency.
- (4) If the Agency in the procedure of certification determines that some of the conditions do not comply with the requirements from paragraph 1 of this Article it issues temporary aircraft type approval.
- (5) If there are some modifications of larger scope to the approved aircraft or its purpose is changed the additional type approval of aircraft is issued.
- (6) Type approval issued or approved by EASA is accepted without initiating the proceedings for recognition.
- (7) The manner and procedure of aircraft certification and aircraft component as well are defined by the act of the Agency.
- (8) For ascertaining compliance with the conditions for issuing of the certificates or approval under paragraph 3, 5 and 6 of this Article a stipulated charge shall be imposed and paid to the Agency.
- (9) The amount of the charge under paragraph 8 of this article shall be determined by the Ministry.

### **Obligation of Maintenance of Aircraft and Aircraft Components**

#### **Article 76**

- (1) The operator of an aircraft is obliged in terms of continuous airworthiness requirements, to inspect and check the aircraft and aircraft components during use, and to maintain them in a condition that guarantees safe air navigation in accordance with the provisions of this Law.
- (2) Inspections and checks, repairs, replacements and maintenance of an aircraft and an aircraft component, and overhaul and mandatory modifications on the aircraft and aircraft component, as well as technical control and control of the quality of works carried out, shall be carried out in accordance with a regulation of the Agency, and the technical instructions of the manufacturer for a specific type of aircraft and aircraft component.

### **Organisations for Providing the Continuous Airworthiness of Aircraft**

#### **Article 77**

- (1) Providing continuous airworthiness of aircraft can be performed by a legal person which complies with the stipulated conditions with reference to the space, personnel and equipment.
- (2) A certificate of compliance of conditions under paragraph 1 of this Article shall be issued by the Agency.
- (3) The aircraft operator may assign the activities of providing continuous airworthiness of aircraft and aircraft component to a foreign legal person listed in the database of the European Aviation Safety Agency (EASA), or to a legal person authorised by the aviation authority of the other state to perform the above stated activities in accordance with the standards which are least equal and beyond standard stipulated by this Law.

(4) For the issuance of a certificate under paragraph 2 of this Article, a charge shall be imposed and paid to the Agency.

(5) For the continuous oversight of the compliance of stipulated conditions under paragraph 1 of this Article, an annual charge shall be imposed and paid to the Agency.

(6) The amount of the charges under paragraphs 4 and 5 of this Article shall be stipulated by the Ministry.

(7) Detailed conditions from paragraph 1 of this Article shall be defined by the regulation issued by the Agency.

## **Organisations and Personnel Performing Maintenance**

### **Article 78**

(1) Maintenance of aircraft and aircraft components can be performed by a legal person complying with the stipulated conditions regarding space, equipment and personnel.

(2) Exceptionally from the provision of paragraph 1 of this Article, particular operations of maintenance, checks and minor repairs on a simple design aircraft intended for non-commercial operations may be performed by the person from Article 88 paragraph 3 of this Law appropriately licensed person for that, as well as by the pilot of that aircraft who has appropriate training and is in possession of an adequate pilot's licence for such an aircraft.

(3) The persons under paragraph 1 and 2 of this Article, who demonstrate compliance with the conditions determined by a regulation of the Agency, shall be issued a certificate of compliance with those conditions by the Agency.

(4) For ascertaining compliance with the conditions for issuing of the certificate from paragraph 3 of this Article, a stipulated charge shall be imposed and paid to the Agency.

(5) For a continuous oversight of the compliance of stipulated conditions from paragraph 3 of this Article, an annual charge shall be imposed and paid to the Agency.

(6) The amount of the charges under paragraphs 4 and 5 of this Article shall be determined by the Ministry.

(7) Detailed conditions from paragraph 1 of this Article shall be defined by the regulation of the Agency.

## **Entrusting Maintenance to Foreign Legal or Natural Person**

### **Article 79**

(1) The aircraft operator may entrust maintenance of an aircraft and aircraft component to a foreign legal person which is included in the EASA database, or has a seat on the territory of EASA member state.

(2) The affairs of aircraft and aircraft component maintenance may be delegated to a legal person not in the record of EASA and has no seat on the territory of EASA member state which were authorized by the air authority of other state which authorized it to perform such

affairs in accordance with the conditions which are at least equal or more severe than the conditions prescribed by the law.

(3) The inspection of fulfilment of conditions from paragraph 2 shall be done by the Agency.

(4) For ascertaining compliance with the conditions for maintenance of aircraft under paragraph 2 of this Article, a stipulated fee shall be charged and paid to the Agency.

(5) The amount of the fee under paragraph 4 of this Article is stipulated by the Ministry.

### **Aircraft Maintenance Programme**

#### **Article 80**

(1) Maintenance of aircraft and aircraft components (preventive and regular maintenance, inspection and checks) shall be carried out according to the programme for maintaining the continuing airworthiness (hereinafter called: maintenance programme) which is determined for each type and model of aircraft in accordance with the regulation of the Agency.

(2) The programme from paragraph 1 of this Article shall be approved by the Agency.

(3) Maintenance programmes are determined by the aircraft operator if it maintains the aircraft and aircraft component, i.e legal persons from Articles 77 and 78 of this Law.

(4) Maintenance programmes contain a plan and stipulated procedures for maintenance of aircraft and aircraft components, as well as terms and ways of their realisation, and are determined in accordance with the requirements for maintenance approved by the competent body of the state of manufacturer, technical instructions of the manufacturer for the maintenance of such type of aircraft and aircraft component, way of their use and results of their reliability check during its operation.

(5) For approving a maintenance programme from paragraph 1 of this Article, a stipulated charge shall be imposed and paid to the Agency.

(6) The amount of the charge under paragraph 4 of this Article shall be determined by the Ministry.

### **Airworthiness of Aircraft and Certificate of Airworthiness**

#### **Article 81**

(1) The capability of an aircraft for safe air navigation (hereinafter called: aircraft airworthiness) shall be determined by an inspection of aircraft and documentation in accordance with the regulation of the Agency.

(2) The Certificate of Airworthiness shall be issued for aircraft meeting the conditions determined by the regulation of the Agency, having aircraft type approval, certification on technical regularity, noise certificate and certificate on the emissions of gasses.

(3) Irrespective of paragraph 2 of this Article noise certificate and confirmation on gas emission are not issued for aircraft defined by the regulation of the Agency.

(4) Airworthiness certificate issued by the Agency is valid as long as aircraft meets the conditions on type approval, continuous airworthiness and other conditions defined by this Law.

(5) When issuing the Certificate of Airworthiness, the Agency or the authorised organisation for providing continuous airworthiness issues also the Confirmation of Airworthiness Check valid 12 months.

(6) Confirmation on Airworthiness check is issued by the Agency or legal person from Article 77 of this Law.

(7) The aircraft operator commits to ask for the extension of the validity of the Confirmation of Airworthiness Check every 12 months. This shall be done at least 30 days before the expiration of its validity term.

(8) If it is ascertained that an aircraft does not comply with any of the conditions for issuing of the Certificate of Airworthiness, the Agency shall revoke the Certificate.

(9) To define the meeting of conditions and issuing the certificate on airworthiness and confirmation on airworthiness check issued by the Agency, the fee has to be paid.

(10) The fee from paragraph 9 of this Article is the income of the Agency.

(11) Detailed conditions for issuance, change, cancellation or temporary suspension of the Certificate of Airworthiness, issuance, change, extension of validity term, cancellation or temporary suspension of Confirmation of Airworthiness Check, the form of Certificate of Airworthiness and Confirmation of Airworthiness check, limitations which are entered in the Certificate of Airworthiness, and the way of performing the aircraft inspection, as well as airworthiness of other aviation products and components shall be determined by the regulation of the Agency.

(12) The amount of the charges under paragraph 9 of this Article shall be stipulated by the Ministry.

## **Inspections and Checks for Ascertaining Airworthiness and Checking Airworthiness**

### **Article 82**

(1) Inspections and checks of an aircraft for the purpose of ascertaining its airworthiness are carried out by the Agency on the ground and, when needed, in flight.

(2) The checks and inspections of the aircraft under paragraph 1 of this Article are performed at the request of the aircraft operator.

(3) The fee shall be paid for the checks and inspections from paragraph 1 of this Article which shall be the income of the Agency.

(4) The amount of the fee from paragraph 3 of this Article is prescribed by the Ministry.

## **Airworthiness of Foreign Aircraft**

### **Article 83**

The Certificate of Airworthiness of a foreign aircraft, issued in the state of registration of the aircraft, shall be recognised in Montenegro if it has been issued in accordance with concluded international agreements.

### **Ramp Inspections of Aircraft**

#### **Article 84**

- (1) Aircraft landing at and/or departing from Montenegrin airports may be subject to ramp inspections or to non-discriminatory spot checks performed by qualified personnel of the Agency in order to check documents and logs in the aircraft, documents of the crew and check of the aircraft conditions.
- (2) The inspection from paragraph 1 of this Article is done in a non-discriminatory manner.
- (3) The manner to perform inspection and the manner of professional training of the persons from the Agency from paragraph 1 of this Article is performed in accordance with the regulation of the Agency.

### **Preventing Safety Risks**

#### **Article 85**

- (1) The Agency is obliged to take all necessary measures to prevent a risk to safety, notably to ground an aircraft which is in a condition clearly hazardous to safety. In such a case it will notify the state of registry of the aircraft, if the aircraft is not registered in Montenegro.
- (2) The aircraft from paragraph 1 of this Article may be allowed to take off based on the permit of the Agency which is issued only if the risk to safety has been eliminated.

### **Technical Flight of Aircraft**

#### **Article 86**

- (1) If it is ascertained that an aircraft does not meet the technical requirements for airworthiness, or if a defect occurs on an aircraft for which a Certificate of Airworthiness has been issued, but the aircraft is capable of safe flight with certain limitations, the Agency may allow such an aircraft, without passengers, to carry out a flight from the airport on which it is currently located to the airport on which the repair will be carried out (technical flight).
- (2) The approval from paragraph 1 for such a technical flight can be issued in cases and under conditions determined by regulation of the Agency.
- (3) Approval for technical flight may be issued by a legal person from paragraph 77 of this Law based on the authorization of the Agency.

### **Aircraft Documents and Log-books**

#### **Article 87**

(1) An aircraft which is used in air traffic must have the registration confirmation, certificate on airworthiness, confirmation on airworthiness check, certificate on technical regularity, technical log of aircraft and other documents in accordance with the regulation of the Agency.

(2) The type of documents and log-books under paragraph 1 of this Article, their contents, and the way of keeping the log-books shall be determined by the Agency.

## **VI. AERONAUTICAL PERSONNEL**

### **Aeronautical Personnel**

#### **Article 88**

(1) Aeronautical personnel shall be considered persons who perform duties:

- 1) of a flight crew member,
- 2) of maintenance and modifications of the aircraft,
- 3) of air traffic control,
- 4) of flight preparation procedures,
- 5) of a pilot of a sports aircraft, or
- 6) of an aeronautical station operator
- 7) of a parachute managing.

(2) Persons under paragraph 1, item 1 of this Article shall be understood to be pilots of aeroplanes, helicopters, airships, powered-lift aircraft, glider pilots, free balloon pilots, flight navigators and flight engineers.

(3) Persons under paragraph 1 item 2 of this Article shall be understood to be technical personnel (technician/engineer/mechanic) who carry out the operations of maintenance, repair and modifications of the aircraft or aircraft components.

(4) Persons under paragraph 1 item 3 of this Article shall be understood to be air traffic controllers and student air traffic controllers.

(5) Persons under paragraph 1 item 4 of this Article shall be understood to be flight operations officers/flight dispatchers.

(6) Persons under paragraph 1 item 5 of this Article shall be understood to be parachutists, pilots of ultra-light aircraft, paragliders and aircraft models heavier than 20 kg.

(7) Persons under paragraph 1 item 6 of this Article shall be understood to be an operator in an aeronautical station for the purpose of keeping communication with an aircraft.

(8) The Agency keeps a register of aeronautical personnel.

(9) The contents and the way of keeping the register under paragraph 8 of this Article shall be determined by the Agency.

### **Conditions for Acquiring of Licences and Type-Ratings**

#### **Article 89**

- (1) Persons from Article 88 of this Law need to have the working license.
- (2) The license from paragraph 1 of this Article may be issued to the person having the appropriate vocational qualifications, working experience and who is professionally qualified to perform the affairs in accordance with the Article 90 of this Law and who meets health and other requirements.
- (3) The license from paragraph 1 of this Article contains the authorization to perform specific affairs.
- (4) The license from paragraph 1 of this Article is issued, renewed, extended and suspended by the Agency.
- (5) A fee which is the income of the Agency is paid for issuing, renewing and extending the license and authorizations from paragraph 3 of this Article.
- (6) Detailed conditions regarding vocational qualifications, working experience and professional competence of personnel, the manner of issuing, renewing and extending the license and authorizations to personnel, the definite time for which the license has been issued, the period of validity of the authorizations, conditions under which the licence is amended, cancelled or temporarily suspended, the conditions under which the authorization is cancelled or temporarily suspended as well as the form of the licence shall be determined by the regulation of the Agency.
- (7) The amount of the fee from paragraph 5 of this Article shall be stipulated by the Ministry.

## **Vocational Training and Examinations**

### **Article 90**

- (1) Vocational training of aeronautical personnel is carried out by a legal or natural person, i.e. state administration body which complies with the conditions with reference to personnel and equipment and which has been authorised for that by the Agency.
- (2) Vocational training of aeronautical personnel shall be performed according to programmes for vocational training of a legal or natural person i.e. state administration body from paragraph 1 of this Article, approved by the Agency.
- (3) Vocational training of aeronautical personnel performed abroad shall be accepted provided that the conditions for such training are equal or above the minimal conditions stipulated by this Law and provided it was performed by the organization which was authorized by competent aviation authorities.
- (4) Fulfilment of conditions from paragraph 1 of this Article is defined by the Agency and it issues the authorization.
- (5) For ascertaining compliance of the legal person with the conditions for performing vocational training under paragraph 1 of this Article and performing continuous oversight, a stipulated charge shall be imposed by and paid to the Agency.
- (6) Detailed conditions with reference to paragraph 1 of this Article, conditions under which the authorization for vocational training of aeronautical personnel, the time period for which the authorization is issued, the form of authorization, the contents of the programme for

vocational training, the way of testing the professional attributes of the examination, shall be determined by the regulation of the Agency.

(7) The compliance of conditions of paragraph 3 of this Article shall be determined by the Agency and the Decision on approving the vocational training is accordingly issued by the Agency.

(8) The amount of charges from paragraph 5 of this Article shall be stipulated by the Ministry.

### **Ascertaining Professional Competence**

#### **Article 91**

(1) Professional competence of aeronautical personnel shall be determined by examinations and checks carried out by examination commissions and examiners.

(2) Examiners list is made by the Agency.

(3) The list from paragraph 2 of this Article is updated on an annual basis.

(4) The examiner may be a person meeting the requirements regarding vocational qualifications and experience.

(5) The members of the examination commissions and instructors-examiners shall have the right to a remuneration from the funds of the Agency, if they are not employees of the Agency.

(6) For ascertaining professional competence from paragraph 1 of this Article, a charge shall be paid as stipulated by the Agency.

(7) Detailed conditions from paragraph 4 of this Article and the amount of the fee from paragraph 6 of this Article shall be determined by the Agency.

### **Recognition of Military Licences and Type-Ratings**

#### **Article 92**

Licences and ratings which military aeronautical personnel gained during their military service shall be recognised when passing the examination for obtaining a licence and type-rating in civil aviation under the conditions determined by this law and the regulation of the Agency.

### **Recognition of Foreign Licences and Ratings**

#### **Article 93**

(1) Licences and ratings acquired in a state which is a party to international agreements binding on Montenegro shall be recognised during the term of their validity, for performing operations for which that licence and rating were issued.

(2) Licences and ratings from paragraph 1 of this Article acquired in EASA member states are recognised without delay or additional checks within their validity term to perform activities for which the licences and ratings are issued with the condition of reciprocity.

(3) The licences and ratings under paragraphs 1 and 2 of this Article shall be recognised by the Agency.

(4) For ascertaining compliance with the conditions for recognising licences and ratings, a stipulated charge shall be paid to the Agency.

(5) The method of recognising foreign licences and ratings under paragraphs 1 and 2 of this Article and the amount of the charge under paragraph 4 of this Article shall be determined by the Ministry.

### **Ascertaining Medical Fitness**

#### **Article 94**

- (1) The medical fitness of aeronautical personnel shall be determined by medical examinations carried out by a legal or natural person who carries out health activities and complies with the conditions with reference to the equipment and professional personnel, which has been authorised for that by the Agency.
- (2) Based on the medical examination the persons from paragraph 1 of this Article make the report on medical fitness of the personnel.
- (3) Based on the report on medical fitness of aeronautical personnel brought by a legal or natural person under paragraph 2 of this Article, the Agency issues a medical certificate.
- (4) A person dissatisfied with the evaluation under paragraph 2 of this Article can, within 15 days from the day of receiving the information that the conditions are not met for the issuance of the medical certificate, submit to the Agency a request for re-evaluation of that opinion.
- (5) The Agency delivers a request under paragraph 4 of this Article to the council of public health institutions for re-evaluation of medical fitness.
- (6) The Agency makes the final decision based on the evaluation of the council under paragraph 5 of this Article.
- (7) For medical examinations and the re-evaluation of the medical opinion of aeronautical personnel, a stipulated charge shall be imposed.
- (8) The charge under paragraph 7 of this Article shall be charged by legal or natural person who performed the medical examination of aeronautical personnel.
- (9) For the purpose of ascertaining compliance with the conditions for the legal or natural person for performing of medical examinations under paragraph 1 of this Article, a stipulated charge shall be paid to the Agency.
- (10) For the continuous check of the fulfilment of conditions from paragraph 1 of this Article the annual fee is paid which is the income of the Agency.
- (11) The conditions which must be met by a legal or natural person under paragraph 1 of this Article, the procedure for the issuance of medical certificate and the amount of the charge from paragraphs 7 and 9 of this Article, shall be determined by the Ministry with the approval of the state administrative body for health.

### **Prohibitions Due to Special Mental or Physical Condition**

#### **Article 95**

(1) While carrying out their operations, aeronautical and cabin personnel (stewardess and steward) must not be under influence of alcohol, intoxicating substances, nor may they carry out their operations if they are in such a mental or physical state that they are not able to carry them out correctly.

(2) Where there is justified doubt, the mental-physical state of aeronautical and cabin personnel shall be checked by the person authorised by the employer of the aeronautical and cabin personnel, before they start to carry out professional operations, as well as during performing of those operations, in the way which does not disturb their work.

(3) The employer of aeronautical and cabin personnel shall establish a procedure which stipulates the procedure of checking the mental-physical state of the person from paragraph 1 of this Article and measures which are undertaken, as well as to inform the Agency on the measures taken.

### **Revoking Licences of Aeronautical Personnel**

#### **Article 96**

(1) A licence to a person belonging to aeronautical personnel shall be revoked:

- 1) if a safety measure has been pronounced against that person in criminal or offence proceedings,
- 2) if the person is mentally or physically incapable of performing operations and tasks for which the licence was given;
- 3) if it is ascertained by checking that the person is not capable of professionally performing operations and tasks for which the licence was given;

(2) The licence shall be revoked by the Agency.

### **Licence for Performing Radiotelephone Communication**

#### **Article 97**

(1) Aeronautical personnel and assistant aeronautical personnel from paragraph 104 of this Law, who use a radio station in performing their operations in accordance with the provisions of this Law, must have a licence for performing radiotelephone communication.

(2) Licences from paragraph 1 of this Article are issued by the Agency to the aircraft and assistant aircraft personnel who is professionally trained.

(3) The manner of professional training from paragraph 2 of this Article shall be defined by the regulation of the Agency.

### **Aircraft Crew**

#### **Article 98**

(1) The crew of the aircraft in the stipulated composition and with the stipulated vocational training shall be aboard the aircraft during flight and the movement of aircraft along airport movement areas.

(2) The number of members of the crew in the aircraft and its composition are determined according to the type, the category and the intended use of the aircraft.

(3) Composition and number of aircraft crew members according to the type, the category and the intended use of the aircraft as well as vocational training of crew members shall be determined by the regulation of the Agency.

## **Determining and Authorisations of the Aircraft Pilot-in-Command**

### **Article 99**

- (1) The pilot-in-command is the pilot operating the aircraft and responsible for the flight of aircraft, its safety, and safety of persons and things in the aircraft, from the moment when one or more persons or things embark the aircraft with the intention to fly, until the moment of disembarking of all persons and things from the aircraft.
- (2) The pilot-in-command is determined for each flight or part of the flight by the aircraft operator, and if it is not determined, the operations of the pilot-in-command are performed by the eldest pilot per vocation in the crew.
- (3) If there is no pilot in the aircraft on the ground, the operations of the pilot-in-command shall be performed by the eldest crew member with reference to their vocation.
- (4) The pilot-in-command represents the aircraft and is authorised to undertake all the measures stipulated by the law in relation with competent authorities and legal persons.
- (5) The pilot-in-command is the head of the crew and may authorise a crew member or an employee of the aircraft operator to perform a certain operation in the aircraft.
- (6) The given authorisation from paragraph 5 of this Article doesn't release the pilot-in-command from the responsibility.

## **Obligations of the Pilot-in-Command**

### **Article 100**

- (1) The pilot-in-command is obliged to operate the aircraft in accordance with the regulations, from which he can deviate only in the event of emergency due to the safety of aircraft and persons in the aircraft.
- (2) The pilot-in-command in commercial air traffic has the obligation to provide personally or through crew members as follows: that all the passengers, before take-off or after take-off are acquainted with the procedures in the event of emergency, the handling of electronic devices, the location and way to use the safety equipment in the event of danger; that all the passengers, before take-off and landing, as well as during the flight in the event of turbulence, have fastened seat belts, that the stipulated safety measures are applied and that in the event of danger, all the crew members and passengers perform their instructions and orders.
- (3) The pilot-in-command, before the take-off, has the obligation to check the capability and status of the aircraft and crew for safe air navigation, as well as whether all the stipulated aircraft documents and log books are in the aircraft.

## **Operations and Obligations of Aircraft Crew Members**

### **Article 101**

- (1) An aircraft flight crew member performs activities for which he or she was issued a licence, and a cabin crew member performs activities for which he or she was issued a certificate of completed training.
- (2) In the event of danger, the pilot-in-command may order a crew member to perform also other tasks.
- (3) An aircraft crew member must not leave his or her working position in the aircraft nor leave the aircraft without the approval of the pilot-in-command.
- (4) An aircraft crew member has the obligation to immediately inform the pilot-in-command about any unusual situation concerning aircraft, persons and things in the aircraft.
- (5) In the event of danger or aircraft accident, the crew members have to undertake all the necessary measures for the rescue of persons and things from the aircraft, as well as the aircraft itself.
- (6) Aircraft crew members must not leave the aircraft without the approval of the pilot in command.

### **Obligations and Authorisations of the Pilot-in-Command and Aircraft Crew Members in the Event of Jeopardising Security**

#### **Article 102**

- (1) The pilot-in-command, as well as aircraft crew members, even without the order of the pilot-in-command, have the obligation, in accordance with the concluded international agreements, to undertake the necessary measures with reference to a person who, with his or her behaviour, jeopardises the security of air traffic, the security of the aircraft, persons and things, or affects order and discipline in the air, in order to prevent the performing of any criminal act or mitigating its consequences.
- (2) If it is necessary to disembark a person due to a criminal act which jeopardises safety and security of persons and things, or some other criminal act against persons and things that affect the order and discipline in the aircraft, or due to disobeying an order of the pilot-in-command or due to other acts which jeopardise the safety and security of aircraft, persons and things, the pilot-in-command has the obligation, before landing at an airport, to inform respectively the state administrative body of interior, through competent air traffic control, and after landing at the airport, to deliver such person to the competent authority, to give the necessary information and possibly gathered evidence.

### **Working Time, Flight Time and Rest Period of Aircraft Crew Members**

#### **Article 103**

- (1) The working time of aircraft crew members in commercial air transport and other commercial activities in air traffic may not exceed 2000 hours during a calendar year.
- (2) Flight time of aircraft crew members from paragraph 1 of this Article may not exceed 900 hours during a calendar year or 100 block hours in any 28 consecutive days.
- (3) Aircraft crew members have the right to a specific number of single days free of duties in the minimum of:
  - a) seven local days during a calendar month, and

b) 96 local days in each calendar year.

(4) Aircraft crew members have the right to paid annual leave for not less than four weeks.

(5) Aircraft crew members are entitled to a health assessment paid by the employer before their assignment and thereafter at regular intervals.

(6) The air carrier must ensure that the aircraft crew members do not go beyond the allowed time limitations concerning the flight time, rest and the number of take-offs and landings in accordance with the paragraphs 1 2 3 and 4 of this Article.

(7) The air carrier must keep records on flying time, work obligations, working time, number of take-offs and landings and rest periods of aircraft crew members.

(8) The working, flight and duty time, the daily, monthly and yearly rest periods, the duration of travelling and standby duty time, the number of take-offs and landings, and the medical and safety measures at work relating to the performance of the duties shall be determined by the regulation of the Agency.

### **Assistant Aeronautical Personnel**

#### **Article 104**

(1) Assistant aeronautical personnel who perform duties of providing aeronautical services, which relate to aviation information, duties of processing of data about the flight of the aircraft, of forwarding of aeronautical information, of maintaining and supervising air traffic management (ATM) equipment approved for operational use, as well as personnel performing duties of meteorological services important for the safety of air traffic, must have the stipulated qualifications, be vocationally trained and comply with other conditions from Art. 94 and 95 of this Law.

(2) Vocational training of assistant aeronautical personnel shall be carried out by legal persons who comply with the stipulated conditions laid down with reference to the personnel and equipment and authorized by the Agency.

(3) Vocational training of assistant aeronautical personnel shall be carried out according to programmes for vocational training and checking of professional competence which are approved by legal person from paragraph 2 of this Article.

(4) Certificate on professional competence of assistant aeronautical personnel is issued by the legal person from paragraph 2 of this Article.

(5) The programmes from paragraph 3 of this Article are approved by the Agency.

(6) Conditions regarding professional competence as well as detailed conditions from paragraph 2 of this Article shall be defined by the regulation of the Agency.

## **VII. SAFETY OF AIR TRAFFIC**

### **Safety Management or Aviation Safety**

#### **Article 105**

(1) Under this Law, aviation safety is a state in which a risk of harm to life and health of persons or of property damage is reduced to, and maintained at or below, an

acceptable level, through a continuous process of hazard identification and risk management.

- (2) Legal persons performing professional training of aeronautical personnel who are exposed to safety risk during the performance of their duties, aircraft operators, legal or natural persons for maintenance, organizations responsible for design, type and/or manufacturing of the aircraft, airport operators and air navigation service providers and other entities defined by National Aviation Safety Programme (hereinafter referred to as: Safety programme) in accordance with the appropriate ICAO requirements are directly responsible for the safe performance of affairs or service provision in air traffic from their competence.

## **Safety Management System**

### **Article 106**

- (1) In order to achieve an acceptable level of safety in air traffic in Montenegro, the Government shall adopt the National Aviation Safety Programme.
- (2) Safety Programme contains safety policy of air traffic and organisation of safety systems, measures to provide it and entities responsible for the implementation of measures to achieve acceptable safety level.
- (3) The professional basis for the development of the National Programme from paragraph 1 of this Article in accordance with the ICAO standards and European regulation shall be prepared by the Agency.
- (4) Legal persons from Article 105 paragraph 2 of this Law are obliged to adopt in accordance with the Safety Programme, the safety management manual approved by the Agency and to establish safety management system.
- (5) The manual from paragraph 4 of this Article contains: operational procedures of an aviation entity and the arrangements for their implementation; safety surveys and monitoring covering all operational areas; hazard identification and risk assessment and mitigation; data collection on accidents, serious incidents and occurrences; a manner of reporting and proposing corrective actions to the Agency; persons responsible for reporting occurrences to the Agency; analysis of the occurrences focusing on identifying their causes; and contingency measures.
- (6) The manual from paragraph 4 of this Article may be the integral part of another manual approved by the Agency.
- (7) Conditions for establishing and using the safety management system are stipulated by the regulation of the Agency.

## **Aviation Safety Management Board**

### **Article 107**

- (1) The Aviation Safety Management Board (hereinafter called Management Board) shall be established by the Government for oversight on the implementation of the National Aviation Safety Programme and adopting decisions on enforcing preventive measures to remove hazards of air traffic safety and for an efficient influence on the complete air traffic safety system in Montenegro.

(2) Safety Board:

- 1) proposes the Safety Programme
- 2) submits the annual report on the implementation of Safety Programme to the Government by 31<sup>st</sup> March of the current year for the previous year
- 3) discusses the reports on accident and serious incidents and other reports related to the air traffic safety
- 4) proposes the implementation of preventive measures to mitigate risk of potential danger for air traffic safety for aircraft entities through specific national safety programme
- 5) performs other affairs in accordance with the safety programme.

(3) Safety Board has seven members:

(4) The members of the Aviation Safety Management Board are: representative of the Ministry, representatives of state administration body responsible for defence affairs, internal affairs and sustainable development, representatives of the Agency, chief investigator of the National Commission for investigation of accidents and serious incidents of aircraft (hereinafter referred to as: Investigation Commission) and a representative of the air navigation service provider.

(5) Detailed composition, term of office and other issues of importance for the work of the Safety Board shall be defined in the Articles of Association.

(6) Articles of Association of the Safety Board are published in the Official Gazette of Montenegro.

## **VIII. AIR TRAFFIC MANAGEMENT**

### **Notion**

#### **Article 108**

Air traffic management shall be the group of functions in air traffic and on the ground which includes operational service in air traffic, air space management and air traffic flow management required for ensuring safe and efficient movement of aircraft during all stages of aircraft operations.

### **Flight Information Region**

#### **Article 109**

(1) The flight information region is determined for the purpose of providing flight information and alerting services.

(2) The flight information region spreads outside of the airspace of Montenegro as well, as far as the borders determined by international agreements.

(3) The airspace of Montenegro may be integrated, for the purpose of air navigation services provision, into one or several functional airspace blocks, in accordance with the concluded international agreements.

(4) The organisation and the structure of the flight information region of Montenegro shall be determined by the Ministry with the previously obtained consent by the state administrative body competent for defence affairs.

(5) The Act on determining the flight information region is delivered to the International Civil Aviation Organisation (ICAO) by the Ministry.

## **Airspace Management**

### **Article 110**

(1) Airspace management is the function of planning with the purpose to ensure the maximum use of available airspace by means of dynamic distribution of time and, from time to time, a dynamic distribution of airspace between the different categories of airspace users based on their short term needs.

(2) Airspace management is implemented in accordance with this Law and concluded international agreements.

(3) Air space management is based on the concept of flexible use of air space composed of three levels:

- strategic air space management (level 1)
- pre-tactic air space management (level 2)
- tactic air space management (level 3)

(4) For the purpose of ensuring efficient strategic airspace management (Level 1), the Government shall establish a National Airspace Management Committee (hereinafter called the Management Committee).

(5) Management Committee shall:

- 1) propose the air space management policy
- 2) propose the manner of air space management
- 3) propose temporary air space reservations and temporary restrictions from Article 19 of this Law
- 4) propose air space structure, examine it periodically and propose its revision
- 5) define working structures at the level of daily air space management and at the level of air space management in real time
- 6) propose principles and guidelines for coordination of civil and military air space users.

(6) The civil members of the Committee shall be appointed among the representatives of the Ministry, the state administrative body responsible for defence affairs, the Agency and the designated air navigation service provider.

(7) Detailed composition, term of office and other issues of importance for the operations of the Management Board are defined by the Articles of Association.

(8) The Committee Members are entitled to a remuneration, the amount of which is determined by the Government.

(9) For the day-to-day management of airspace which is within the competence of Montenegro (Level 2), the designated air navigation service provider shall establish an Airspace Management Cell.

(10) In addition to the air navigation services provider, the representatives appointed by the state administrative body responsible for defence shall also participate in the work of the Cell from paragraph 9 of this Article.

(11) For the purpose of ensuring airspace management in real time (Level 3), the designated air navigation service provider and the state administrative body responsible for defence shall establish procedures for civil-military cooperation and ensure communication systems for mutual sharing of data to enable activation, deactivation and relocation of the airspace appointed by the Cell referred to in paragraph 9 of this Article.

(12) The way of airspace management and the structure (dimensioning, space planning and structure, classification to airspace classes, flexible use of airspace) and other functions with the aim of maximum use of the available airspace, as well as conditions for airspace management shall be determined by the Ministry with the prior consent of state administration body responsible for the affairs of defence.

## **Air Navigation Services**

### **Article 111**

(1) Air navigation services shall be provided within the flight information region of Montenegro in accordance with the provisions of this Law and the concluded international agreements.

(2) Air navigation services shall also be provided outside the airspace of Montenegro up to the boundaries of the designated functional airspace block, subject to the conditions and modalities set out in the concluded international agreements.

## **Rendering Services in Air Navigation**

### **Article 112**

(1) Air navigation services are provided for the purpose of safe, free and regular air traffic operations, under conditions and in the way determined by this Law.

(2) The air navigation services in flight information region include:

1) Air traffic services:

- Flight information services,
- Alerting services,
- Advisory services in air traffic and
- Air traffic control services (airport, approach and area control services)

2) services of communication, navigation and supervision

3) services of aeronautical information

4) services of aeronautical meteorology

(3) The provision of air navigation services to the armed forces of Montenegro shall be performed under the conditions, in the manner and within the scope defined in special agreements between the state administrative body responsible for defence and air navigation service providers, subject to prior approval by the Government.

- (4) Services from paragraph 2 of this Article shall be provided by air navigation service provider.
- (5) Air navigation service providers shall be entitled to the route and terminal charges and other charges paid by airspace users.
- (6) The amount of route charge is defined in accordance with international agreements.
- (7) The manner of calculating terminal charge and the amount of the part of terminal charge from Article 13 paragraph 1 item 2 shall be defined by the Government.
- (8) The services from paragraph 2 of this Article are performed in the manner and under the conditions determined by the regulation of the Ministry.

### **Air Navigation Service Provider**

#### **Article 113**

- (1) An air navigation service provider is obliged to adopt operative manuals for the operations in accordance with this law and international agreements.
- (2) An air navigation service provider may perform activities under Article 112 paragraph 2 of this Article even outside the flight information region, in accordance with international agreements.

### **Certificate of Air Navigation Service Provider**

#### **Article 114**

- (1) The Agency shall issue a Certificate of Air Navigation Service Provider to a legal submitting evidence of compliance with the stipulated conditions to provide services of managing air traffic including: technical, operational and practical training and suitability, systems and processes for safe activity and management of high quality, reporting systems, service quality, financial stability, responsibility and insurance coverage, organisational structure and ownership, including the prevention of conflict of interest, human resources as well as appropriate plans for professional personnel and security;
- (2) A Certificate of Air Navigation Service Provider may be issued for performing of one or more air navigation services.
- (3) Fulfilment of conditions from paragraph 1 of this Article shall be defined by the Agency and it issues the Certificate for air navigation service provision.
- (4) The Agency shall recognise the Certificate of Air Navigation Service Provider issued by a state signatory of the ECAA agreement.
- (5) An air navigation service provider having an issued or recognised certificate of air navigation service provider shall at any time comply with the applicable common requirements or with the conditions attached to the issued or recognised certificate,
- (6) Service provider from paragraph 5 of this Article shall notify the Agency of planned changes to its provision of air navigation services which can influence compliance with the applicable common requirements, shall deliver safety argumentation on planned changes in order to issue the approval on changes in the functional system.
- (7) A charge shall be paid to the Agency for the auditing process to confirm compliance with the requirements for issuing i.e. recognizing the Certificate from paragraph 1 of this Article,

for the continuing oversight over the service provider concerned, to ensure continuous compliance with these requirements, for issuing and recognizing of the Certificate.

(8) The procedure of introducing amendments from paragraph 6 of this Article, the contents of safety argumentation, the procedure of analyzing and assessment of safety argumentation shall be determined by the regulation of the Agency.

(9) Detailed conditions from paragraph 1 of this Article, method of issuing, recognizing, amending, revoking or temporary suspending certificates to air navigation service providers as well as the amount of the charge from paragraph 7 of this Article shall be determined by the Ministry.

### **Determination of Air Navigation Service Provider**

#### **Article 115**

(1) The Government shall determine the air navigation service provider.

(2) For rendering air navigation services under Article 112 paragraph 2 item 1 of this Law in the flight information region, the Government shall determine one air navigation service provider which complies with the conditions determined by this Law.

(3) The air navigation service provider under paragraph 2 of this Article may be also a joint air navigation service provider formed on the basis of an agreement concluded with other state signatories of the ECAA Agreement.

(4) For rendering air navigation services under Article 112 paragraph 2 item 1 of this Law in a specific functional block of airspace, for which, besides Montenegro, some other state is competent, the Government together with competent bodies of such state shall determine one or more air navigation service providers..

### **Air Traffic Control Services**

#### **Article 116**

(1) Air traffic control services include a series of activities and procedures performed by the air navigation service provider in order to prevent collisions of aircraft in flight and on manoeuvring areas, and collisions of aircraft and obstacles in flight and on manoeuvring areas, as well as providing for the regularity and efficiency of air traffic.

### **Aircraft Identification, Coordination and Notification to Aircraft in Flight**

#### **Article 117**

(1) In addition to Article 116 of this Law, air traffic control services include identification of aircraft and flying objects, coordinating work with the air traffic control service providers of neighbouring countries and providing information to aircraft in flight.

(2) Notification to aircraft in flight is giving advice and information necessary for the safe performance of the flight.

(3) Advice and information under paragraph 2 of this Article relate particularly to the condition of airport surfaces, meteorological conditions and condition of navigation instruments.

(4) Notification to aircraft in flight is performed by the air navigation service provider.

### **Regulating the Flow of Air Traffic**

#### **Article 118**

(1) Regulating the flow of traffic represents the matching of requests for air traffic with the available capacity of the air navigation service provider.

(2) The method of regulating the flow of traffic and coordination with air navigation service providers in states outside the flight information region shall be determined by the regulation of the Agency.

### **Recording and Keeping of Data**

#### **Article 119**

(1) Every communication of the aircraft in flight and during flight preparations with air navigation service providers, radar data and every communication between air navigation service providers, as well as written documentation with reference to the flight approval, coordination, issuing prohibition and conditions for the use of air space, flight announcements, submitting flight plans and similar, are recorded electronically and kept for at least 30 days from the date of their creation.

(2) The conditions of keeping the recordings and documentation under paragraph 1 of this Article shall be determined by the regulation of the Agency.

### **Access to and Protection of Operational Data**

#### **Article 120**

(1) Operational data used exclusively for operational purposes, relating to general air traffic shall be exchanged in real time among all air navigation service providers, airspace users and airport operators.

(2) The access to relevant operational data is made possible without discrimination to competent authorities, air navigation service providers, airspace users and airport operators.

(3) Air navigation service providers, airspace users and airport operators shall define the standard requirements for access to relevant operational data other than that referred to in paragraph 1 of this Article and which shall be approved by the Agency.

### **Aviation Meteorology Services**

#### **Article 121**

(1) The aviation meteorology services include continuous monitoring of meteorological conditions above airports and in the flight information region, in order to achieve the safety, efficiency and regularity of air traffic, as well as preparing and gathering meteorological information, its sending to aircraft operator, airport operator and other service users and supplying the users with meteorological information.

(2) Meteorological information includes meteorological reports, analysis and forecasts or any other information relating to existing and expected meteorological conditions.

(3) Aviation meteorology services are performed by the air navigation service provider.

(4) The method of preparing and gathering meteorological information, its sending and supplying the users with meteorological information shall be determined by the regulation of the Agency.

### **Other Services of Aviation Meteorology**

#### **Article 122**

(1) Some aviation meteorology services, namely the development of meteorological flight documentation and of aviation climate information, establishing the system for the exchange of meteorological information and calibration of devices and instruments at airports, are performed by state administration authority for hydrometeorology.

(2) The way of making information and establishing the system under paragraph 1 of this Article are prescribed by the state administrative body competent for environmental protection with the consent of the Ministry.

### **Technical Systems, Means and Facilities**

#### **Article 123**

(1) Technical systems, means and facilities include the design, installation, maintenance and oversight over the operation and working conditions of the technical systems and air navigation facilities used for flight control, the notification of aircraft in flight, regulation of the traffic flow and aviation meteorology activities.

(2) All the technical systems, means and facilities under paragraph 1 of this Article, which are located on the territory of Montenegro, are the property of Montenegro and are given for use to air navigation service provider.

(3) Technical systems, means and objects from paragraph 1 of this Article shall be acquired and maintained in order to provide the interoperability of Montenegrin and European Air Traffic Management Network (EATMN), and to comply with appropriate general and specific requirements during the whole period of their use.

(4) The inspection of technical systems, means and facilities under paragraph 2 of this Article before starting their use or during their use, shall be performed by the Agency.

(5) Air navigation service providers must have technical documentation, instructions for use and a maintenance programme with the defined terms of use and calibration, spare power supply and air conditioning when this is necessary for the technical systems under paragraph 4 of this Article.

(6) After determining the working conditions of technical systems under paragraph 1 of this Article, the Agency shall issue a service-use permit.

(7) Air navigation service providers have an obligation to deliver to the Agency data about technical systems, equipment and devices, data about cessation of their work or fault as well as the introduction of new items, and the Agency publishes them as is customary in air traffic.

(8) Technical systems, equipment and devices under paragraph 1 of this Article, shall be of a certain type, made and attested in accordance with the international standards adopted by Montenegro.

(9) The affairs from paragraph 1 of this Article shall be performed by air navigation service provider in the manner defined by the regulation of the Agency.

## **Coordinates of Radio Navigation Devices**

### **Article 124**

- (1) Air navigation service provider and owner or airport operator in Montenegro shall determine coordinates of radio navigation devices.
- (2) The Agency shall publish the coordinates of radio navigation devices under paragraph 1 of this Article as is customary in air traffic.

## **Unauthorised Interference**

### **Article 125**

It is prohibited to place physical obstacles, emission devices, or facilities which emit electromagnetic waves at a distance from which their work or presence may interfere with the work of technical systems, devices and equipment for the functioning of air traffic under Article 123 paragraph 1 of this Law.

## **Priority and Quality of Telecommunication**

### **Article 126**

Telecommunication service providers in Montenegro shall provide the priority and quality of communication necessary for the functioning of air traffic, with the compensation of actual costs.

## **IX. ACCIDENTS AND SERIOUS INCIDENTS OF AIRCRAFT, SEARCH AND RESCUE OF AIRCRAFT**

### **Aircraft Accident, Serious Incident, Incident and Occurrence Investigation**

#### **Article 127**

- (1) Every aircraft accident and serious incident must be thoroughly examined and analyzed, independently from the investigation held by competent state bodies.
- (2) Investigation of aircraft accidents, serious incidents, incidents and occurrences, or establishing facts and circumstances under which they happened does not have the aim to identify the guilt or responsibility for the accidents, serious incidents, incidents and safety-related occurrence, but has the aim to prevent them in future.
- (3) Any person who learns about an accident and serious incident or incident of an aircraft shall immediately advise the state administrative body in charge of internal affairs, operations communication centre through call number 112, the Ministry, the competent air traffic control at the closest airport, or the National Commission for the Investigation of Accidents and Serious Incidents.
- (4) If a foreign aircraft suffers an accident, serious incident or incident in the airspace or territory of Montenegro, the Ministry shall inform respectively the state administrative bodies competent for internal and foreign affairs and the competent authorities of the state in which

the aircraft is registered, the state of the aircraft design organisation, the state of the aircraft operator and the state of the aircraft manufacturer, as well as competent authorities of other states if there were persons from those states in the aircraft which suffered an accident, serious incident or incident.

(5) If a Montenegrin civil aircraft or foreign aircraft using a natural person with the residence or legal person with the seat in Montenegro, suffers an accident or serious incident in the territory of another state, the investigation of that accident, or serious incident shall be carried out according to this Law if that state does not carry out an investigation.

(6) If a civil and military aircraft participated in an accident or a serious incident, the investigation of accident or serious incident shall be jointly performed by the National Commission for Investigation and the representatives of state administrative body in charge of defence affairs, and if a military or foreign military aircraft participated in an accident or serious incident, the commission shall be formed by the state administrative body competent for defence affairs.

## **National Investigation Commission**

### **Article 128**

- (1) The Government shall establish a National Investigation Commission in order to investigate accidents and serious incidents of aircraft.
- (2) The Commission from paragraph 1 of this Article is functionally and organisationally independent from the Agency, the aviation entities under Article 105 paragraph 2 of this Law and from other entities with which it may have a conflict of interest or which may have influence on the objectivity of the Commission.
- (3) The National Investigation Commission:
  - 1) investigates aviation accidents and serious incidents and, at its discretion, aircraft incidents and occurrences;
  - 2) advises safety recommendations for the promotion of safety in air traffic;
  - 3) keeps National data base on accidents, serious incidents, aircraft incidents and event jeopardizing safety;
  - 4) delivers data from the national database to international organisations in accordance with concluded international agreements;
  - 5) cooperates with other investigation entities for accident investigation which are members of the International Civil Aviation Organisation (ICAO);
  - 6) publishes the results of the investigation respecting secrecy principles;
  - 7) prepares, proposes and updates a list of experts for investigation of aviation accidents and serious incidents (hereinafter: list of experts)
  - 8) submits to the Government the annual report on operations by 31<sup>st</sup> March of current year for the previous year
  - 9) performs other affairs of importance for investigation of accidents and serious incidents of aircraft
- (4) Investigation Commission is composed of at most three permanent members.
- (5) National Investigation Commission is represented and managed by the investigator-in-charge.

(6) If needed, temporary members participate in the work of the Commission who are hired from the list of experts from paragraph 3 item 7 of this Article.

(7) The investigator-in-charge under paragraph 5 of this Article, in each particular case, shall form an expert team from the list of independent experts for accident investigation, and when deemed necessary, for investigation of an incident and occurrence.

(8) The National Investigation Commission shall deliver to the Government reports on the results of the investigation of accidents and serious incidents of aircraft, at the latest five days from making the report.

(9) The members of the National Investigation Commission have the right of remuneration for their work.

(10) Funds for the operations of the National Investigation Commission are provided from the budget of Montenegro.

(11) A more detailed procedure, the way of conducting investigations of accidents, serious incidents, as well as incidents and occurrences detailed authorisations of the investigator-in-charge, the way of reporting, organisation, working method, training of independent experts, other issues important for the work of the committee, as well as the amount of remuneration under paragraph 9 of this Article shall be determined by the Ministry.

## **Mandatory Reporting**

### **Article 129**

(1) Every legal or natural person that, within the operations from its competence, has participated or been acquainted with safety related occurrences, for which the reporting is stipulated as mandatory, commits to inform the Agency and the National Investigation Commission respectively without delay and at the latest within 72 hours from the time it was noticed.

(2) The list of occurrences which are mandatory to be reported, the way, rules, reporting forms and entities which shall report about occurrences are stipulated by the regulation of the Agency.

## **Voluntary Reporting**

### **Article 130**

(1) Every legal or natural person acquainted with occurrences he/she considers to represent a real or potential hazard to safety or has participated in such an occurrence, may on their own initiative and voluntarily inform the Commission.

(2) The purpose of voluntary reporting on occurrences under paragraph 1 of this Article shall not be attributing guilt or liability.

(3) For legal or natural persons that have voluntarily reported occurrences under paragraph 1 of this Article, as well as for legal and natural persons to which the occurrences relate, the Commission shall provide confidentiality in accordance with the regulation which regulates the protection of data.

(4) The list of occurrences which are voluntarily reported and for which confidentiality is guaranteed, the way, rules, reporting forms about occurrences under paragraph 1 of this Article shall be determined by the regulation of the Agency.

## **Purpose of Reporting**

### **Article 131**

- (1) The purpose of reporting about occurrences is performed because of the promotion of air traffic safety.
- (2) Reporting from paragraph 1 of this Article are collected, analyzed, kept and distributed by the Agency which also makes reports on the occurrences.
- (3) Paragraph 1 of this Article relates to occurrences where Montenegrin aircraft participated, in or out of the airspace of Montenegro, as well as to occurrences in which foreign aircraft participated, which were, at the moment of the occurrence, operated by Montenegrin operators.
- (4) The National Investigation Commission shall perform an investigation of the occurrence if it considers it necessary, after having received from the Agency a report about the occurrence analysis.

## **Database**

### **Article 132**

- (1) The National Investigation Commission and the Agency are responsible for collecting, analyzing, keeping, managing and distributing the data, reports on jeopardising safety, accidents and serious incidents of aircraft, as well as about occurrences in a separate database in accordance with the regulation about the secrecy of data.
- (2) The way of collecting data, analysing, keeping, managing and distributing data and reports, as well as the way of conducting the database under paragraph 1 of this Article shall be determined by the Ministry.

## **Competences in Search and Rescue of Aircraft**

### **Article 133**

- (1) Search and rescue of an aircraft shall be carried out in the territory of Montenegro, in accordance with this Law.
- (2) An air navigation service provider, by alerting, starts the search and rescue procedure of all aircraft falling within the competence of the air traffic control, other aircraft which submitted a flight plan or are known to entities competent for providing air traffic services in another way and aircraft which are threatened by illegal disturbance or are the subject of illegal disturbance.
- (3) The air navigation service provider shall, without delay, inform about a missing aircraft the state administrative body responsible for search and rescue, the Agency, and the National Investigation Commission who in turn informs the aircraft operator or owner and the competent authority of the country of registration of the aircraft.
- (4) The state administrative body responsible for protection and rescue from paragraph 1 of this Article shall establish protocols for co-ordination of actions by different participants in search and rescue activities by a special standard operating procedure with the agreement of all the participants referred to in paragraph 3 of this Article.
- (5) The Agency performs oversight with reference to the training of persons from the operations control centres and maritime rescue coordination centre (MRCC) which participate

in search and rescue of aircraft on land and at the sea in accordance with international regulations, standards and recommended practices in this field.

(6) Detailed conditions and the way of performing search and rescue of aircraft under paragraph 1 of this Article shall be determined by the state administrative body competent for Interior with the consent of the Ministry.

### **Obligation of Participation in Search and Rescue Procedure of Aircraft**

#### **Article 134**

(1) Aircraft search and rescue activities shall be carried out, depending on the scope, conditions and needs, in cooperation with the state coordination team for crisis management situations, by the operational units, public and health institutions, units of police and armed forces, entities competent for operations of maritime safety, civil aviation, air traffic control and hydrometeorology, legal and natural persons engaged in performing air traffic and other legal and natural persons that can assist in the action of search and rescue.

(2) The operator or the owner of the aircraft, the pilot-in-command, the airport operator, and the competent health institutions are obliged to participate in the search and rescue procedure at the request of the central state administrative body responsible for protection and rescue, or to put at disposal the means necessary for search and rescue, and to provide emergency aid and undertake the measures for transport of persons.

### **Costs of Search and Rescue**

#### **Article 135**

(1) All subjects which participated in search and rescue of an aircraft are entitled to compensation in the amount of the actual expenses which they had during search and rescue.

(2) The expenses under paragraph 1 of this Article shall be covered by the operator, or the owner of the aircraft for which the search or the rescue was carried out.

(3) The funds for infrastructural, material and other costs of search and rescue are provided by the Agency in accordance with concluded cooperation agreements.

## **X. AVIATION SECURITY**

### **Aviation Security and Acts of Unlawful Interference**

#### **Article 136**

(1) Aviation security is a combination of measures, and of human and material resources, with the goal of protecting air traffic from acts of unlawful interference.

(2) Under this Law, acts of unlawful interference shall primarily be understood as acts of:

1) hijack of aircraft

2) armed attacks to the facilities of civil aviation, appliances, personnel and passengers;

3) offence against persons on an aircraft in flight, if such an act can endanger aircraft safety,

- 4) destruction of an aircraft in use or causing damage on such an aircraft which would make it incapable of flying or which would endanger safety in flight,
- 5) setting or participating in setting of an appliance or an object on an aircraft in use, by which the aircraft could be destroyed or damage could be caused to it, which would render it incapable of flying or which would endanger safety in flight,
- 6) destruction or damaging of technical means of air navigation or disturbing of their operation, if such acts can endanger the safety of the aircraft in flight,
- 7) giving false information which endangers the safety of the aircraft in flight,
- 8) illegal and intentional use of any appliance, substance or weapon:
  - ◆ for performing an act of violence against persons at the airport which has or might have as a consequence serious injuries or death,
  - ◆ for destruction or serious damage of the facilities, equipment or means at the airport or of an aircraft out of use which is situated on it, if such an act endangers or may endanger safety at that airport.

## **National Aviation Security Committee**

### **Article 137**

- (1) For the purpose of undertaking preventive measures, effective action and elimination of consequences caused by unlawful interference in air traffic, the Government shall establish the National Aviation Security Committee (hereinafter called: the Security Committee).
- (2) Security Committee shall:
  - 1) follow the implementation of preventive measures defined by National Aviation Security programme (hereinafter referred to as: Security Programme) and measures to remove the consequences caused by illegal interference of civil aviation;
  - 2) monitor the application and implementation of security measures on airports based on inspection checks and reports and impose other measure to be undertaken;
  - 3) analyse the level of danger and decide on the application of specific level of additional, strengthened security measures to be undertaken and implemented on airports;
  - 4) manage actions in crisis situations caused by the actions of unlawful interference in accordance with the Security Programme;
  - 5) perform other affairs of the interest for security of civil aviation.
- (3) Security Committee has seven members.
- (4) As members of the Security Committee shall be appointed representatives of the Ministry and the state administrative bodies competent for the interior, administrative bodies competent for police affairs, defence affairs, the Agency, the authorities competent for national security, representatives of the bodies competent for customs.
- (5) If needed, the representatives of airport operators, aircraft operators, air navigation service providers and other state administration bodies participate in the work of Security Committee.

(6) Detailed composition, term of office and decision-making and other issues of importance for the work of Security Committee shall be defined by the Articles of association.

(7) Members of the Security Committee shall be entitled to a stipulated remuneration.

(8) Articles of Association of the Security Committee shall be published in the Official Gazette of Montenegro.

### **Airport Security Committee**

#### **Article 138**

(1) For the purpose of carrying out specific operations and measures of aviation security, the Security Committee shall establish an Airport Security Committee (hereinafter called: airport security committee) for every airport.

(2) Security Committee shall give approval for the appointment of members of Airport Security Committee.

(3) Members of the Airport Security Committees shall be appointed representatives of airport operators, air navigation service providers, aircraft operators, representative of state administration body competent for the police affairs and affairs of customs as well as other entities which are included in the implementation of measures of aviation security at the airport for commercial air traffic.

(4) Scope of work, detailed composition, term of office and manner of work of Airport Security Committee shall be defined by the Articles of Association.

### **National Civil Aviation Security Programme**

#### **Article 139**

(1) The National Security Programme is adopted by the Government at the proposal of the Security Committee.

(2) Security Programme shall include: measures to be implemented to protect civil aviation from illegal interference, entities responsible to implement measures with the description of measures to be undertaken by the operators and other entities and training programme for civil aviation security.

(3) The National Security Programme shall have a certain level of secrecy in accordance with the Law regulating the secrecy of data, and shall be made in Montenegrin and English language.

(4) The Agency shall monitor the implementation of the National Security Programme and submits to the Security Committee the report on implementing operative measures from the Security Programme.

(5) National Committee submits to the Government the annual report on the operations and implementation of National Security Programme by 31<sup>st</sup> March of current year for the previous year.

### **Quality Control Programme**

#### **Article 140**

(1) The Quality Control Programme shall be adopted by the Government at the proposal of the Security Committee.

(2) The Quality Control Programme shall be made in Montenegrin and English languages with specific secrecy level in accordance with the Law defining the secrecy of data.

(3) The Quality Control Programme includes: organization and responsibilities of entities included in the control of civil aviation security, monitoring of the quality of the implementation of civil aviation security measures, the manner and activities to remove detected lacks in the control of quality and other activities of importance for the control of quality of civil aviation security.

(4) The Agency monitors the implementation of the Quality Control Programme and submits to the Committee the report on the implementation of operational measures from the Quality Control Programme of civil aviation security.

### **Separate Civil Aviation Security Programmes**

#### **Article 141**

(1) The airport operator, the aircraft operator as well as the air navigation service provider shall develop their own security programmes in accordance with the national programme.

(2) The programmes under paragraph 1 of this Article shall be approved by the Agency.

(3) In the process of giving the approval from paragraph 2 of this Article the Agency may impose correctional measures to remove incompliance of the programme from paragraph 1 with the Security Programme.

(4) Any foreign air carrier shall on request of the Agency submit for approval its aviation security programme.

(5) The Agency may impose the implementation of corrective measures to the operator from paragraph 4 of this Article if it assesses it is required.

### **Competence and Obligations of Implementation of Security Measures**

#### **Article 142**

(1) The operator of an airport shall ensure in particular:

1) space for inspection of an aircraft which is subjected to unlawful interference.

2) control and prevention of unauthorised access to areas of an airport susceptible in respect of safety and security,

3) suitable rooms for performing security control of passengers and cargo,

4) performing security control of passenger hold baggage and cargo,

5) technical equipment for performing security control of passenger hold baggage and cargo,

6) performing security control of passengers and their hand luggage,

7) technical equipment for performing security control of passengers and their hand luggage.

(2) Security control of facilities, installations, appliances and equipment at the airport or security control of aircraft shall be carried out by the state administrative bodies in charge of

police on the basis of the request by the airport operator or the aircraft operator, and on the basis of increased threats or security judgements.

(3) For performing the examinations under paragraph 2 of this Article, the airport operator or the aircraft operator shall pay a charge which shall be determined by the state administrative body in charge of interior.

(4) The operator of an airport may by contract entrust the performance of paragraph 1, items 2, 4 and 6 of this Article to the legal persons registered for performing of security services in accordance with the stipulated conditions with the previous approval of the Agency.

(5) All the aircraft operators shall apply, in addition to their own programme also the airport security programme.

### **Security Fee**

#### **Article 143**

(1) The costs for performing security control of passengers, their hand luggage and hold baggage shall be paid

(2) The fee from paragraph 1 of this Article shall be paid by the passengers at departure.

(3) The amount of the charge for security control under paragraph 1 of this Article shall be determined by the airport operator with the approval of the Ministry.

### **Background Check**

#### **Article 144**

(1) Persons who perform or are responsible for the implementation of security control, access control and other security controls in the security restricted area must be adequate for the performance of these activities.

(2) The background check represents a documented check of persons, including their potential police file which is the part of the assessment of person's eligibility to access unaccompanied to the airport security restricted area.

(3) The persons who may access the security restricted area, apart from the passengers who were screened, shall have ID card for crew members, Agency Inspectors or airport ID.

(4) To obtain the ID from paragraph 3 of this Article the background check is performed.

(5) Background check is performed by the administration body responsible for police affairs by having the insight in penal and operative records as well as based on the certification issued by the relevant judicial body.

### **Handing Over, Transport and Return of Weapons, Ammunition and Other Dangerous Substances in Air Services**

#### **Article 145**

(1) It is forbidden to carry cold and fire arms, and other explosive and inflammable substances or objects, as well as instruments and objects listed in the prohibited articles sheet published by the Agency, into the passenger cabin of an aircraft and the security restricted area.

(2) As an exception to paragraph 1 of this Article may be allowed under conditions stipulated by the state administrative body in charge of interior.

(3) The person carrying cold and fire arms and ammunition is obliged to declare it at the flight registration and to give it to the authorized member of state administration body responsible for the Police affairs at the airport, provided that cold or fire arms of ammunition are returned to him after the flight.

(4) The manner of handing and returning the cold and fire arms or ammunition shall be defined by the state administration body responsible for the internal affairs.

(5) The manner of handling the explosive, flammable or hazardous substances as well as means and objects which are at the list of prohibited objects shall be defined by the regulation of the Agency.

## **XI. NOISE PROTECTION**

### **Noise Protection**

#### **Article 146**

Air navigation service providers, airport operators, aircraft operators and aircraft pilots shall undertake measures of protection from aircraft noise, in accordance with the specific regulations for noise protection in accordance with international regulations.

### **Aircraft Noise and Exhaust Emissions**

#### **Article 147**

Aircraft noise and exhaust emissions which an aircraft makes during taking off and landing must be below the stipulated maximum levels of noise and exhaust emission in accordance with the regulation of the Ministry, with the consent of the state administration body of environment protection and in accordance with concluded international agreements.

### **Noise Measuring**

#### **Article 148**

(1) The operator of an airport in which commercial air services are carried out, and the operator of an airport in which the operations of military jet airplanes are carried out, shall ensure constant measuring of noise at the airport and its surroundings, made during taking off and landing of the aircraft.

(2) Paragraph 1 of this Article applies to airports with more than 50,000 operations during the preceding year.

(3) The results of the noise measurements referred to in paragraph 1 of this Article shall be used to develop noise maps and action plans in the part relating to air traffic.

(4) The conditions and the ways of noise measuring under paragraph 1 of this Article shall be determined by a state administrative body competent for environment protection, with the consent of the Ministry.

### **Areas of Protection from Noise**

#### **Article 149**

(1) On the basis of results of noise measuring under Article 148 of this Law, areas of protection from noise shall be determined, in which the equivalent level of aircraft noise exceeds 67 dB(A), or 75 dB(A), with those areas entered in the planning documentation.

(2) The conditions and the ways of ascertaining areas of protection from noise, and the conditions for construction in those areas, shall be determined by the state administrative body competent for land use planning and environment protection, with the consent of the Ministry.

### **Right to Compensation**

#### **Article 150**

(1) Under the construction conditions under Article 149 paragraph 2 of this Law, legal and natural persons are entitled to compensation.

(2) The compensation under paragraph 1 of this Article shall be paid by the airport operator.

(3) The amount of compensation under paragraph 1 of this Article, and the way and the procedure of realising the right to compensation, shall be determined by the Government on the proposal of the state administrative body competent for land-use planning and environmental protection.

## **XII. INSPECTION OVERSIGHT**

### **Inspection oversight**

#### **Article 151**

(1) Inspection oversight over the implementation of this Law, regulations adopted based on this Law, as well as concluded international agreements binding on Montenegro which relate to aircraft and aircraft components, air traffic, provision of air navigation services and flight rules; as well as airport flight information, airport and airport services, aeronautical personnel, assistant aviation and other qualified personnel, the regularity and work of technical means and facilities of air navigation, shall be performed by the Agency.

(2) The inspection oversight activities under paragraph 1 shall be performed by the Inspector for Air Traffic (hereinafter called the Inspector), in accordance with this Law and the Inspection Oversight Law.

### **Inspection Oversight of Aircraft, Aircraft Components and Air Traffic**

#### **Article 152**

(1) Inspection oversight operations which refer to an aircraft, an aircraft component and air traffic shall comprise mainly oversight over implementation of regulations on: aircraft, particularly with respect to the conditions for safe use of an aircraft and an aircraft component, and to the aircraft airworthiness; on manufacture, modification, overhaul and maintenance of the aircraft and the aircraft components, equipment, documents, log-books and manuals; on air traffic, with respect to compliance with the stipulated conditions for safe performing of public transport, maintaining destinations and flight schedules of air services; on meeting the conditions for safe use of the aircraft for private needs and meeting the conditions for performing other activities in air traffic.

(2) Inspector may require extraordinary aircraft check if there is a reasonable doubt in aircraft airworthiness.

(3) If the aircraft check is performed at the request of the inspector, the fee from Article 82 paragraph 3 of this Law for the performed check is not paid if it is defined by the inspection that the aircraft is airworthy.

## **Inspection Oversight of Airports and Airport Services**

### **Article 153**

(1) Inspection oversight operations which refer to airports shall comprise oversight over the implementation of regulations on: the safe use of airports and airfields; design and construction of airports and facilities in the airport areas of significance for air traffic safety; maintenance of airports and airport facilities and equipment serving for the safe performance of air traffic; construction and location of aeronautical obstacles; location and maintenance of signs for perceiving aeronautical obstacles; the state of movement areas; the state of lighting systems used for approaching, taking off and landing of aircraft, and ensuring and good working order of the power supply for those systems; technical and other conditions for handling of aircraft, passengers and objects in airports for public transport; the loading and arrangement of weight in an aircraft; the quality of fuel and lubricants and good working order of the appliances and equipment used for supplying aircraft with fuel and lubricants.

(2) Inspection oversight operations which refer to airport services shall comprise oversight over the implementation of regulations on providing those services in connection with the safe performance of air traffic, the vocational qualifications and competence of employees and on the state of technical means, equipment and appliances.

## **Inspection Oversight of Aeronautical Personnel, Assistant Aeronautical and Other Professional Personnel**

### **Article 154**

(1) Inspection oversight operations relating to aeronautical personnel shall involve supervision of the implementation of regulations on: the work and the manner of performing professional operations by aeronautical personnel; personnel professional training and licensing, their professional competence and medical fitness; the amount of working hours and flight hours, travelling and standby duty time; the number of take-offs and landings (during working hours); daily and weekly rest periods and annual leave; as well as health and safety measures at work relating to the performance of duties of aircraft crew members, as well as working time, the duration of working time at the operational working position and leaves of flight controllers

(2) In performing the inspection oversight operations which refer to assistant aeronautical and other professional personnel, provisions under paragraph 1 of this Article shall apply respectively.

(3) If an inspector, when performing the inspection oversight, has a suspicion that there are conditions under Article 96 paragraph 1 points 2 and 3, he shall immediately temporarily revoke the licence on a period of 15 days and propose initiation of the procedure for ascertaining the health, or professional capability.

## **Inspection Oversight of the Air Navigation Service Provider**

### **Article 155**

Inspection oversight operations relating to air navigation service providers shall primarily involve oversight of the implementation of regulations on: requirements to be fulfilled by the air navigation service provider; technical systems and facilities of significance for air traffic safety, particularly with reference to the proper operation, maintenance and reliability of technical systems and the performance of operational services in air traffic; communication, navigation and surveillance services; flight information services and the aviation meteorology service; and regarding implementation of stipulated procedures, recommended practices and international standards.

## **Inspection Oversight of Aviation Security**

### **Article 156**

Inspection oversight operations relating to aviation security shall involve oversight of the implementation of the provisions of this Law concerning aviation security, in accordance with the provisions of the National Security Programme.

## **Authorisation in Performing a Check**

### **Article 157**

(1) In addition to the authorisations determined in the law which regulates the inspection oversight, in performing the inspection oversight, the aeronautical inspector is authorised to carry out a check of an aircraft, an aircraft component, an airport and its facilities and air navigation facilities, the means and equipment for air traffic safety, documents, log-books and other documentation, to enable him to ascertain if professional operations of the supervised entities are carried out in the way stipulated by this Law and regulations adopted based on this Law.

(2) If she/he carries out, as requested, inspection oversight of operation of the aircraft crew and good working order of the aircraft in flight, the aeronautical inspector is authorised to use a free seat in the cockpit of the aircraft.

(3) While carrying out the inspection oversight, the aeronautical inspector is entitled to check the licences of aeronautical, assistant aeronautical and other professional personnel, to control the implementation of the regulations on work and the way of performing professional operations, to request extraordinary checking of professional competence and of the medical ability of those personnel and interview the responsible persons or persons whose work is subject to the inspection oversight, as well as witnesses.

## **Authorisation for Pronouncing Limitations and Prohibitions**

### **Article 158**

(1) If the aeronautical inspector ascertains that the state of movement areas, facilities, means and equipment at the airport or in the provision of airport services limit the use of an airport, with reference to the class, group and category of an airport, the category and the type of the aircraft and the type of flight, she/he shall order that the use of an airport be limited in accordance with the existing conditions and that users of the airport are informed respectively.

(2) If aeronautical inspector determines that there are some obstacles hindering the operations of technical systems, appliances and equipment in air traffic he shall order their removal.

(3) The aeronautical inspector shall forbid the use of an airport for taking off and landing of all or only of specific aircraft, if aeronautical obstacles threaten safe taking off and landing, or if space for checking of aircraft, adequate rooms for checking passengers and objects, and technical equipment for checking of the aircraft, passengers and objects have not been ensured.

(4) If during performing an inspection oversight of an aircraft, an aircraft component and the equipment of the aircraft, the way of their use, building and maintenance, the aeronautical inspector ascertains irregularity which endangers air traffic safety, or if she/he ascertains that the aircraft, an aircraft component or equipment of the aircraft do not correspond to the technical requirements for airworthiness, she/he shall forbid or limit the use of that aircraft or aircraft component until the ascertained irregularity or shortcoming is eliminated.

(5) If the aeronautical inspector ascertains that the state of air navigation facilities or operations endanger air traffic safety, she/he shall order that air traffic control services are limited to a safe operation.

### **Advising on Presence**

#### **Article 159**

The aeronautical inspector shall notify a responsible person about his presence about the initiated inspection oversight.

### **Inspector Credentials**

#### **Article 160**

(1) The inspector has credentials, by which he/she proves his official capacity, identity and authorisations.

(2) The contents and form of the inspector credentials shall be determined by the Ministry.

## **XIII. OFFENCE PROVISIONS**

### **Offences of Aircraft Operators, Air Carriers or Other Legal, Responsible persons in a legal person and Other Natural Persons**

#### **Article 161**

(1) The aircraft operator or air carrier or other legal person shall be fined in the amount from 1 000 to 15 000 Euros for an offence:

- 1) if it performs commercial air transport without an AOC and operating licence, and if it performs other commercial operations without an AOC (Article 23),
- 2) if it performs non-commercial operations with complex motor-powered aircraft without a previously delivered declaration about its professional capability and means to discharge the responsibilities concerning the operation of the aircraft (Article 32 paragraph 2),
- 3) if it performs non-commercial operations, not operated by complex motor-powered aircraft, and not complying with the stipulated conditions for aircraft airworthiness, in the

event that the personnel does not hold appropriate licences and does not comply with the stipulated conditions to perform such activities in accordance with this Law (Article 32, paragraph 3),

4) if it performs international scheduled air transport without complying with the conditions stipulated in Article 23 paragraph 1 of this Law and the conditions stipulated in international agreements, as well as in other international acts which regulate a safe and regular operation of international scheduled air transport (Article 34 paragraph 1),

5) if it does not determine and publish the flight schedule and its modifications in compliance with the provisions of this Law (Article 36, paragraph 1 and 2),

6) if it does not comply regularly with performing a Public Service Obligation (Article 37),

7) if it does not publish and state the total price on the ticket or in other way, which consists of the price for the carriage of passengers, baggage, cargo and/or mail, airport charges, taxes and other costs paid within the price for carriage (article 38 paragraph 2),

8) if it performs a landing or takeoff with an aircraft operating taxi-transport or panoramic flights at airports for non-commercial aircraft operations and airfields without the approval of the Agency (Article 50 paragraph 1),

9) if it performs landing and take-off beyond the opening hours of an airport and without the consent of the airport operator (Article 55 paragraph 2),

10) if it operates an aircraft not entered in the registry in compliance with the provisions of this Law or does not register a leased foreign aircraft into the register, after the expiration of the term stipulated by this Law (Article 61 and Article 63 paragraph 1),

11) if it does not notify about the modification of data entered into the register within 15 days from the date of such a modification (Article 65 paragraph 1),

12) if it operates the aircraft entered into the register without the designated national affiliation marks and registration marks in compliance with the provisions of this Law and regulations of the Ministry (Article 70, paragraphs 1, 2 and 3),

13) if the aircraft does not have a type certificate, certificate of airworthiness and certificate of release to service, or if the certificate of airworthiness and certificate of release to service are not in the aircraft cabin (Article 72 paragraph 1),

14) if it does not maintain in airworthy condition the aircraft registered and/or operated in Montenegro, or if, before each flight, it does not check the airworthy condition of aircraft, or in case it does not provide the continuous airworthiness and maintenance of aircraft registered or operated in Montenegro (Article 72 paragraph 2,3 and 4),

15) if it does not operate the aircraft in compliance with the type certificate and the aircraft type certificate data sheet in the way stipulated in the approved Flight Manual, or contrary to conditions and way of aircraft and aircraft component operation as determined by the regulation of the Agency (Article 73, paragraph 1, 2 and 3),

16) if it does not carry out the design, production, modification and repair of aircraft and aircraft component in accordance with the conditions for design, production, modification and repair in accordance with the regulation of the Agency, or in case it performs the design, production, modification and repair of aircraft and aircraft component without the confirmation about the compliance with stipulated conditions issued by the Agency (Article 74, paragraph 1, 2 and 3),

17) if it operates a new type of aircraft and aircraft component without the mandatory certification, or contrary to the conditions and procedure of certification stipulated by regulation of the Agency (Article 75, paragraphs 1 and 2),

18) if it does not maintain the aircraft and aircraft components in accordance with this Law, or if it does not inspect and check the aircraft and aircraft components during operation and does not maintain them in the condition which guarantees safe air navigation, or if it does not perform inspections and checks, repairs, replacements and maintenance of an aircraft and aircraft components, nor overhauls and mandatory modifications to aircraft and aircraft components, as well as technical control and quality control in accordance with regulation of the Agency and technical instructions of the manufacturer for a specific type of aircraft and aircraft component (Article 76),

19) if it performs the maintenance of continuous airworthiness of aircraft without the certificate of compliance with the conditions with reference to space, personnel and equipment issued by the Agency, or if it assigns the maintenance of aircraft and aircraft component to a foreign legal or natural person, which is not in the EASA database, or to a legal person not being authorised by the aviation authority of some other state to perform the said activities in accordance with the standards which are least equal or beyond the standards stipulated by this Law and regulations adopted pursuant to this Law (Article 77, paragraph 1, 2 and 3),

20) if it performs the affairs of aircraft maintenance and its components without having the certificate on meeting the requirements regarding space, personnel and equipment issued by the Agency or if the affairs of maintenance, inspection and minor repairs to simply designed aircraft used for non-commercial operations are not done by the person from Article 88 paragraph 3 of this Law having the license in accordance with this Law of pilot-in-command of that aircraft who is professionally trained and has a license for such aircraft or if it delegates the aircraft maintenance and its component to a foreign legal or natural person who is not in the EASA record or has no seat on the territory of EASA or to a legal or natural person who is not authorized by the aeronautical authority of another state to perform the affairs in accordance with the requirements which are at least equal or more severe than the requirements defined by this Law (Article 78, paragraphs 1 and 2, Article 79 paragraphs 1 and 2)

21) if it does not perform the maintenance of aircraft and its components (preventive and regular maintenance, inspections and checks) according to the programme to maintain continuous airworthiness approved by the Agency and which is defined for each type and model of aircraft in accordance with the regulation of the Agency (Article 80 paragraphs 1 and 2)

22) if aeronautical personnel do not meet specific health and other conditions for performing specific professional work in accordance with this Law for which the licence and type-rating were issued (Article 89, paragraph 2),

23) if, during flight and while moving of the aircraft along movement areas, the crew in the aircraft is not in accordance with the stipulated composition and not having the stipulated training in the way determined by regulation of the Agency (Article 98),

24) if it does not provide that the working time, flight time, daily, weekly and annual rests, the duration of the trip and duty time obligations, number of take offs and landings, medical and safety measures at work relating to the performance of duties of aircraft crew members, are in accordance with this Law and regulation of the Agency (Article 103),

- 25) if it does not have or apply a safety management system manual as the constituent part of its safety management system (Article 106 paragraph 4),
- 26) if it is acquainted with an accident or serious incident of the aircraft, and does not inform immediately the state administrative body competent for interior operational communication centre (OCC) by calling number 112, the Ministry, the competent air traffic control at the closest airport, or the National Investigation Commission, i.e. if, while performing activities under its competence, it participated or was acquainted about the safety-related occurrences for which reporting is mandatory, and did not inform respectively the Agency and the National Investigation Commission within 72 hours (Article 127 paragraph 3 and Article 129 paragraph 1),
- 27) if it does not have its civil aviation security programme approved by the Agency or if it does not apply it (Article 141 paragraphs 1 and 2),
- 28) if the aircraft noise and exhaust emissions made by the aircraft during take-off and landing are not below the stipulated maximum levels of noise and exhaust emissions in accordance with the regulation of the Ministry (Article 147),
- 29) if it does not make it possible for the Aeronautical Inspector the use of the free seat in the cockpit when performing the inspection oversight on the operation of the aircraft crew and the good working order of the aircraft in flight, or if it does not make it possible for the Aeronautical Inspector to check the licences of aeronautical, assistant aeronautical and other qualified personnel, the control of the implementation of the regulations on work and the way of performing professional operations, the check of professional competence and medical ability of personnel and interviewing of responsible persons and persons whose work is subject to inspection oversight, as well as witnesses (Article 157),
- (2) The responsible person of the aircraft operator or air carrier or the responsible person in other legal person, shall be fined for offences under paragraph 1 of this Article with the administrative monetary penalty in the amount from 300 to 1,000 EUR.
- (3) The entrepreneur shall be fined for offences under paragraph 1 of this Article with the administrative monetary penalty in the amount from 300 to 6,000 EUR.
- (4) Another natural person shall be fined for offences under paragraph 1 of this Article with the administrative monetary penalty in the amount from 150 to 2,000 EUR.
- (5) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting the operation of the aircraft operator, air carrier, other legal and responsible person who made the offence in performing the operation, may be imposed in the duration from two to six months.

## **Offences of Foreign Air Carriers and Responsible Persons**

### **Article 162**

- (1) A foreign air carrier shall be fined for an offence with the administrative monetary penalty from 1,000 to 15,000 EUR:
- 1) if it operates in the airspace of Montenegro and is subject to an operating ban within the area of European Union (Article 16 paragraph 2),
  - 2) if it operates international scheduled air transport with Montenegro contrary to conditions from the ECAA Agreement, contrary to the provisions of the concluded international agreements or to the conditions for the approval for performing of transport (Article 34 paragraph 2),

- 3) if it performs air transport between airports in Montenegro, contrary to the ECAA Agreement, and without the approval or contrary to the approval issued by the Agency to a foreign air carrier in accordance with the concluded international agreements (Article 34, paragraphs 3 and 4),
  - 4) if during flight, in the airspace of Montenegro, it does not bear the insignia of national affiliation and registration designations determined by a regulation of the state of registration of such aircraft or designations stipulated by international agreements (Article 71),
  - 5) if, at the request, it does not submit to the Agency for approval its Civil Aviation Security Programme (Article 141 paragraph 4),
- (2) The responsible person in the branch office of the foreign air carrier shall be fined for offences under paragraph 1 of this Article with the administrative monetary penalty in the amount from 500 to 1,000 EUR.
- (3) The entrepreneur shall be fined for offences under paragraph 1 of this Article with the administrative monetary penalty in the amount from 300 to 6,000 EUR.
- (4) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting the operation to the aircraft operator and responsible person in the Branch Office of the foreign air carrier who made the offence in performing the operation, may be imposed in the duration from two to six months.

### **Offences of the Pilot-in-Command of Foreign Aircraft**

#### **Article 163**

- (1) The pilot-in-command of a foreign aircraft shall be fined for an offence in the amount from 500 to 1 000 Eur for the following:
- 1) if he or she operates the aircraft contrary to the conditions, way, rules and procedures of flight, including the air traffic services, determined by a regulation of the Agency (Article 14 paragraph 2),
  - 2) if in international air traffic he or she performs a landing and take-off outside the international airports or other airports which are not designated for international air traffic, but for which the airport operator provided in another way and at his own expense the application of regulations about crossing the state border (Article 15 paragraph 1),
  - 3) if a foreign aircraft operates in the airspace of Montenegro without the approval if not stipulated otherwise by the international agreement (Article 16 paragraph 1),
  - 4) if he or she performs air transport in prohibited and restricted areas, or if the aircraft is operated contrary to the conditions and ways determined for the said areas (Article 19),
  - 5) if he or she performs out-of-airport landing or take-off from a surface not approved by the Agency, or performs an out-of-airport landing and take-off without the approval of the Agency (Article 20, paragraphs 3, 4 and 6)
  - 6) if it does not make it possible for the Aeronautical Inspector to use the free seat in the cockpit when performing the inspection oversight on the operation of the aircraft crew and the good working order of the aircraft in flight, or if it is not made possible for the Aeronautical Inspector to check the licences of aeronautical, assistant aeronautical and other qualified personnel, the control of implementation of the regulations on work and the way of performing professional operations, the check of professional competence and

medical ability of personnel and interviewing of responsible persons and persons whose work is subject to inspection oversight, as well as witnesses (Article 157),

(2) For offences under paragraph 1 of this Article, a protective measure of prohibiting the operation in the airspace of Montenegro by the pilot-in-command of the foreign aircraft, may be imposed in the duration from two to six months.

## **Offences of the Airport Operator or other Legal Persons and Responsible Persons**

### **Article 164**

(1) The airport operator or other legal person shall be fined for an offence with the administrative monetary penalty in the amount from 1,000 to 15,000 EUR:

1) if it uses the airport in air traffic without an operating permit for use in accordance with the regulations referring to the construction of facilities, and without the approval for the use of airport or airport certificate issued by the Agency (Article 39),

2) if it uses the airport which is not constructed in a way to comply with the conditions which make possible a safe take-off, landing and movement of all or only specific types of aircraft (Article 42, paragraph 1),

3) if the design, construction, reconstruction and marking of the airport, movement areas, facilities for handling of aircraft, passengers, baggage, cargo and/or mail and other facilities which make possible a safe take-off, landing and movement of aircraft at the airport, are not performed in accordance with this Law (Article 42 paragraph 2),

4) if, before starting the design, construction, reconstruction and marking of airport, movement areas, facilities for handling of aircraft, passengers, baggage, cargo and/or mail and other facilities which make possible a safe take-off, landing and movement of aircraft at the airport, it does not obtain before starting the said activities the approval issued by the Agency, (Article 42, paragraphs 3 and 4),

5) if within the term of 60 days before the beginning of the works or 48 hours before the beginning of the works of minor scope which may restrict the use of operative areas, it does not inform the competent authorities and persons about the planned change of the purpose or the category of airport, or about the planned major works which can lead to the closing of the airport or limiting its use, if the major works begin, and it limits the use or closes international airport without the previous consent of the Agency (Article 43, paragraphs 1 and 2),

6) if it does not perform the construction and placing of aeronautical obstacles in the area of the airport, including facilities and technical means of air navigation, the construction and placing aeronautical obstacles outside the area of the airport which can influence the safety of air traffic, as well as their marking and maintenance, in the way determined by the regulation of the Ministry, or if it does not place and maintain signs for distinguishing the aeronautical obstacles (Article 44, paragraphs 2 and paragraph 5 item 2),

7) If it does not obtain previous consent from the Agency for construction and placing of aeronautical obstacles outside the airport that exceed the stipulated height (Article 44 paragraph 3)

8) if it does not provide in accordance with the provisions of this Law and the regulation of the Ministry, the maintenance and control of movement areas, facilities, installations, devices and equipment at the airport, or fails to undertake all measures necessary for the safe operation of aircraft, handling of aircraft, passengers, baggage, cargo and/or mail in accordance with the regulation of the Agency (Article 45),

9) if it does not provide for the undisturbed use of movement areas, facilities, devices and equipment at the airport, according to their purpose and capacity in compliance with the provisions of this Law (Article 51 paragraph 1),

10) if it does not provide at the airport the stipulated rescue and fire fighting service and render emergency and medical aid and also the handling of aircraft, passengers, baggage, cargo and/or mail at the airport rendering air transport service, or if such activities are not performed in the stipulated way at the time of operational hours of the airport (Article 53, paragraphs 1 and 4),

11) if the airport is not open at a time in which it must be open for air traffic in accordance with the regulation of the Ministry, depending on traffic and conditions at the airport (Article 55),

12) if the airport does not have and does not apply the safety management system manual approved by the Agency as the constituent part of its safety management system (Article 106, paragraph 4),

13) if it does not have a civil aviation security programme approved by the Agency (Article 141, paragraphs 1 and 2),

14) if it does not provide space for the control of an aircraft which is the subject of unlawful interference, if it does not provide control and prevention of unauthorised access into security vulnerable and restricted areas of the airport, if it does not provide appropriate premises for the security screening of passengers and cargo, if it does not provide security screening of hold baggage and cargo, if it does not provide technical equipment for the security screening of baggage and cargo, if it does not provide security screening of passengers and their hand baggage and if it does not provide technical equipment for the security screening of passengers and their hand baggage in the stipulated way (Article 142 paragraph 1),

15) if it does not provide a continuous measurement of noise made during landing and take-off of aircraft at the airport and its surroundings, (Article 148 paragraph 1).

(2) The responsible person of the airport operator or the responsible person of other legal person shall be fined for an offence under paragraph 1 of this Article with an administrative monetary penalty in the amount from 300 to 1,000 EUR.

(3) The entrepreneur shall be fined for an offence under paragraph 1 of this Article with an administrative monetary penalty in the amount from 300 to 6,000 EUR.

(4) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting operation by the airport operator or other legal person and responsible person who made the offence in performing the operation, may be imposed in the duration from two to six months.

### **Offences of the Aircraft Operator or Owner, Airport Operator or Other Legal Persons, Responsible Persons and Other Natural Persons**

#### **Article 165**

(1) Aircraft operators or owners, airport operators, and competent health institutions shall be fined for an offence with the administrative monetary penalty in the amount from 1,000 to 15,000 EUR, if they do not participate in the procedure of search and rescue at the request of the state administrative body competent for defence or of they do not make available the means necessary for search and rescue, if they do not render urgent medical help or do not undertake measures for the transport of persons (Article 134 paragraph 2).

- (2) For an offence under paragraph 1 of this Article, the responsible person of the legal person shall be fined with the administrative monetary penalty in the amount from 300 to 1,000 EUR.
- (3) For an offence under paragraph 1 of this Article, the entrepreneur shall be fined with an administrative monetary penalty in the amount from 300 to 6,000 EUR.
- (4) For an offence under paragraph 1 of this Article, the pilot-in-command and other natural person shall be fined with an administrative monetary penalty in the amount from 300 to 1,000 EUR.
- (5) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting the operation of the aircraft operator or owner or other legal person and responsible person who made the offence in performing the operation, may be imposed in the duration from two to six months.

### **Offences of a Pilot-in-Command or Other Person who Operated or Participated in the Operation of the Aircraft**

#### **Article 166**

- (1) The pilot-in-command or other person that operated or participated in the operation of an aircraft shall be fined for an offence with an administrative monetary penalty in the amount from 500 to 2,000 EUR:
- 1) if the aircraft was operated contrary to conditions, ways, rules and procedures of flight, including the air traffic services, determined by a regulation of the Agency (Article 14 paragraph 2),
  - 2) if he/she performed the landing or take off in international air traffic outside an international airport or outside of other airports which were not designated for international air traffic, and for which the airport operator provided in some other way and at its own expense the application of regulation on state border crossing (Article 15 paragraph 1),
  - 3) if he/she performs air traffic in a prohibited and restricted area, or if the aircraft is operated contrary to the conditions and methods determined for the said areas (Article 19),
  - 4) if he/she performs the out-of-airport landing or take-off from a surface not approved by the Agency or performs out-of-airport landing or take-off without the approval of the Agency (Article 20 paragraphs 3, 4 and 6),
  - 5) if he/she does not perform the flight in compliance with the regulations (Article 100 paragraph 1);
  - 6) if he/she does not provide, personally or through crew members, that before take-off or after take-off, all the passengers are acquainted with the procedures in the event of emergency, how to handle electronic devices as well as with the location and method of using the safety equipment in the event of danger, or that before take-off and landing, as well as during flight in the event of turbulence, all the passengers stay fastened with their seat belts; if he or she does not ensure that the stipulated safety measures are applied and that in the event of danger all the crew members and passengers perform their orders and instructions (Article 100, paragraph 2);
  - 7) does not check before take off the capability and status of aircraft and aircrew for safe air navigation, or whether all the stipulated licences and log-books are in the aircraft (Article 100, paragraph 3);
  - 8) does not take the necessary measures with reference to a person who in the aircraft jeopardises, by his or her behaviour, the security of air traffic, the security of aircraft,

persons and things or affects order and discipline in the aircraft in accordance with the concluded international agreements (Article 102 paragraph 1);

9) if, before landing at the airport, he or she does not notify the competent body through the competent air traffic control about the disembarking of a person, or if, after landing at the airport, does not deliver such person to the competent body, does not provide the necessary information and possibly gathered evidence (Article 102 paragraph 2),

10) if he/she is acquainted with an accident or serious incident of the aircraft, and does not inform immediately the state administrative body competent for interior, operational communication centre (OCC) by calling number 112, the Ministry, competent air traffic control at the closest airport, or the National Investigation Commission for Occurrences, Accidents and Serious Incidents of Aircraft, i.e. if, while performing activities within its competence, it participated or was acquainted with the safety-related occurrences for which reporting is mandatory, and did not inform respectively the Agency and the National Investigation Commission within the term of 72 hours. (Article 127 paragraph 3 and Article 129 paragraph 1),

11) if he/she does not participate at the request of the state administrative body competent for protection and rescue in the procedure of search and rescue with their aircraft (Article 134, paragraph 2),

12) if he or she does not undertake protective measures against aircraft noise and exhaust emissions of the aircraft while taking off and landing, in accordance with the Law which regulates the protection from noise and in accordance with international regulations (Articles 146),

13) if he/she does not make it possible for the Aeronautical Inspector to use the free seat in the cockpit when performing inspection oversight on the operation of the aircraft crew and the good working order of the aircraft in flight, or if he or she does not make it possible for the Aeronautical Inspector to check the licences of aeronautical, assistant aeronautical and other qualified personnel, the control of the implementation of the regulations on work and the way of performing professional operations, the check of professional competence and medical capability of personnel and interviewing of responsible persons and persons whose work is subject to inspection oversight, as well as witnesses (Article 157),

(2) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting the performance of the function, operations or duties of the pilot-in-command or the other person who operated or participated in aircraft operation, may be imposed in the duration from two to six months.

## **Offences of Air Navigation Service Providers and Responsible Persons**

### **Article 167**

(1) The air navigation service provider shall be fined for an offence with an administrative monetary penalty in the amount from 1,000 to 15,000 EUR:

1) if it does not publish the prohibited and restricted areas in the way as is customary in air traffic, or if it does not publish, based on the received information from the Ministry and state administrative body for defence affairs the temporarily reserved airspace and/or temporary or permanent restrictions in Montenegrin airspace, as well as the way of flying through the stated areas (Article 19 paragraphs 5 and 6),

- 2) if it does not provide that the working time, the duration of working time at the operational working position and leaves of flight controllers are in accordance with this Law and the regulation of this Agency (Article 103 paragraph 8);
- 3) If it does not have or doesn't apply a safety management system manual as a constituent part of its safety management system (Article 106 paragraph 4),
- 4) if it does not provide services in air navigation in the flight information region of Montenegro and outside of the airspace of Montenegro up to the boundaries of the designated functional airspace block, in accordance with concluded international agreements (Article 111 paragraphs 1 and 2),
- 5) if it does not provide air navigation services under conditions and in the way determined by this Law (Article 112 paragraph 1),
- 6) if it does not develop operational manuals and if it does not perform its activities in accordance with such manuals (Article 113 paragraph 1),
- 7) if it provides air navigation services without a certificate of air navigation service providers issued or recognised by the Agency (Article 114),
- 8) if, at any time, it does not comply with the applicable common requirements or limitations with reference to the issued or recognised certificate and if it does not notify the Agency about planned changes referring to providing services which could influence the compliance with the applicable common requirements or limitations (Article 114, paragraphs 5 and 6),
- 9) if it does not record electronically and does not keep for at least 30 days each communication of aircraft in flight and during flight preparation with the air navigation service provider, the radar data and each communication within the air navigation service provider, as well as written documentation regarding the flight approval, coordination, issuing prohibitions and conditions for the use of airspace, flight announcement, submitting flight plan and similar (Article 119, paragraph),
- 10) if it does not provide the exchange of operational data relating to general air traffic in real time only for operational purposes and if it does not determine the standard conditions for access to other relevant operational data (Article 120),
- 11) if the activities of technical support are not performed in accordance with the conditions and the way determined by the regulation of the Agency (Article 123 paragraph 9),
- 12) if it does not deliver to the Agency the data about technical systems, equipment and devices, the data about cessation of their work or fault as well as about the introduction of new items, for the purpose of publishing in the way as is customary in air traffic (Article 123, paragraph 7),
- 13) if it does not determine the coordinates of radio navigational devices for the purpose of publishing in the way as is customary in air traffic (Article 124, paragraph 1),
- 14) if it does not have its own civil aviation security programme approved by the Agency or if it does not apply it (Article 141, paragraphs 1 and 2),
- 15) if it does not comply with the obligation of undertaking protection measures for aircraft noise in accordance with the law which regulates protection from noise and in accordance with international regulations (Article 146),

(2) The responsible person of the air navigation service provider shall be fined for an offence under paragraph 1 with an administrative monetary penalty of an amount from 300 to 1,000 EUR.

(3) The entrepreneur shall be fined for offences under paragraph 1 of this Article with an administrative monetary penalty of an amount from 300 to 6,000 EUR.

(4) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting the operation of the air navigation service provider and responsible person that made the offence during the operation, may be imposed in the duration from two to six months.

## **Offences of Aircraft Crew Members**

### **Article 168**

(1) An aircraft crew member shall be fined for an offence with an administrative monetary penalty of an amount from 300 to 1,000 EUR if:

1) in the event of danger, he/she does not perform the activities ordered by the pilot-in-command (Article 101, paragraph 2),

2) he or she leaves his/her working position in the aircraft or leaves the aircraft without the approval of the pilot-in-command or if he/she does not inform immediately the pilot-in-command about any unusual situation regarding the aircraft, persons and things in the aircraft (Article 101 paragraphs 3 and 4);

3) he/she doesn't undertake all necessary measures in the event of danger or aircraft accident for the rescue of persons and things from the aircraft, as well as the aircraft itself or if he/she leaves the aircraft without the approval of the pilot-in-command (Article 101, paragraphs 5 and 6).

(2) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting the performance of the function, operations or duties of aircraft crew member, may be imposed for a duration from two to six months.

## **Offences of Aeronautical and Assistant Aeronautical Personnel**

### **Article 169**

(1) A person belonging to aeronautical personnel or assistant aeronautical personnel according to the provisions of this Law shall be fined for an offence with an administrative monetary penalty of an amount from 300 to 1,000 EUR, if he or she does not have the work permit, i.e. the stipulated vocational qualifications, or is not professionally trained and does not comply with the special medical and other conditions for performing professional tasks in accordance with this Law, or if during the operation he/she was under the influence of alcohol or intoxicating substances or performs activities in a mental-physical state which disables him/her to perform them correctly and if, while performing the operation, he/she uses the radio station without permission for using the radio-telephone communications (Article 89 paragraph 1 and 2, Article 95 paragraph 1, Article 97 paragraph 1 and Article 104 paragraph 1).

(2) For offences under paragraph 1 of this Article, in addition to the administrative monetary penalty or independently, a protective measure of prohibiting performance of the function,

operations or duties of the aeronautical personnel or assistant aeronautical personnel, may be imposed for a duration from two to six months.

## **Offences of Natural Persons**

### **Article 170**

(1) A natural person shall be fined for an offence with an administrative monetary penalty of an amount from 300 to 1,000 EUR:

1) if the person places physical obstacles, emission devices, objects emitting electromagnetic waves at a distance from which they may interfere with the work of technical systems, devices and equipment for air traffic either with their functioning or presence (Article 125),

2) if the person is acquainted with an accident or serious incident of an aircraft, and does not inform immediately the state administrative body competent for interior, operational communication centre (OCC) by calling number 112, the Ministry, competent air traffic control at the closest airport, or the National Investigation Commission, i.e. if, while performing activities under his or her competence, he or she participated or was acquainted with safety-related occurrences for which reporting is mandatory, and did not inform respectively the Agency and the National Investigation Commission without delay and at the latest within 72 hours. (Article 127 paragraph 3 and Article 129 paragraph 1),

3) if he or she carries into the cabin of the aircraft cold or fire arms or ammunition and other explosive and inflammable substances or objects, as well as means and articles from the List of prohibited articles, published by the Agency (Article 145, paragraph 1).

## **Mandatory Fines**

### **Article 171**

(1) A legal person shall be fined with an administrative monetary penalty in the amount up to 2,000 EUR:

1) performing out-of-airport landings or take-offs to and from a surface not approved by the Agency, or performs the out-of-airport landing and take-off without the approval of the Agency (Article 20 paragraphs 3, 4 and 6),

2) organising a public competition or air show where aircraft participates without the approval of the Agency (Article 22),

3) not obtaining the previous consent of the Agency before taking the aircraft into lease, or not obtaining the consent of the Agency when it puts the aircraft in lease without the crew (Article 31, paragraphs 2 and 3),

4) announcing and offering a commercial air transport operation and other commercial operations not being registered to perform such operations without an operating licence and/or AOC (Article 33),

5) performing maintenance activities and the oversight of movement areas, facilities, installations, devices and equipment, activities of rescue and fire fighting service, handling of aircraft, passenger, baggage, cargo and/or mail at the airport, without being vocationally trained and failing to comply with other stipulated conditions (Article 45 paragraph 2 and Article 53 paragraph 5),

6) operating an aircraft in air traffic without having the stipulated licences and log-books (Article 87 paragraph 1)

- 7) an air traffic controller or assistant aeronautical personnel not having the stipulated licence or type-rating for performing a specific vocational job (Article 104 paragraph 4),
  - 8) aeronautical personnel not having with them the stipulated licence and type-rating from such a licence (Article 89 paragraphs 1 and 3),
  - 9) placing physical obstacles, emission devices, objects emitting electromagnetic waves at a distance from which they could interfere, by their functioning or presence, with the technical systems, devices and equipment for air traffic (Article 125).
- (2) For offence from paragraph 1 of this Article, a responsible person within the legal person and a natural person shall be fined 200 EUR.
  - (3) For offence from paragraph 1 of this Article, the entrepreneur shall be fined 400 EUR.

#### **XIV. TRANSITIONAL AND FINAL PROVISIONS**

##### **Adoption of rules**

##### **Article 172**

- (1) Subordinate legislation for the implementation of this Law shall be adopted within two years as of the day of coming into force of this Law.
- (2) By the adoption of legislation from paragraph 1 of this Article, subordinate legislation adopted based on the Law on air traffic shall apply. (Official Gazette of MNE, no. 66/08).

##### **The Agency**

##### **Article 173**

- (1) The Agency of Civil Aviation founded in accordance with the Law on Air Traffic (Official Gazette of MNE, no 66/08) shall continue with its work in accordance with the provisions of this Law.
- (2) The mandate of the President and members of the Council shall continue to perform their functions until the expiration of the mandate.
- (3) The Agency from paragraph 1 of this Article is obliged to comply its operations with this Law in term of six months as of the day when this Law comes into effect.

##### **The Founding of the National Investigation Commission**

##### **Article 174**

- (1) The Commission from Article 128 shall be founded within 90 days from entering into force of this Law.
- (2) Until its founding, activities under the competence of the National Commission under paragraph 1 of this Article shall be performed by the Agency.

## **Founding of the Committees and Adopting the Programme**

### **Article 175**

- (1) The Government shall, within six months from the day of coming into force of this Law establish the Committees from Art. 58, 59, 107 and 110 of this Law.
- (2) The National Civil Aviation Security Committee established until this Law becomes effective continues with its work in accordance with the provisions of this Law.
- (3) The Programmes from Art 60 and 106 of this Law shall be adopted within 60 days as of the day of establishing the Committees from paragraph 1 of this Article.

## **Validity of Certificates, Licences, Approvals and Other Documents**

### **Article 176**

- (1) Certificates, licences, approvals and other documents issued prior to the date of coming into force of this Law shall be valid until the expiration term for which they were issued.

## **Validity of Law**

### **Article 177**

The Law on Air Traffic ("Official Gazette of Montenegro", No 66/08) shall no longer be valid on the date of coming into force of this Law.

## **Effectiveness**

### **Article 178**

This Law becomes effective on the eighth day from the date of publication in the "Official Gazette of Montenegro".

Number 14-5/12-1/5

EPA 781 XXIV

Podgorica, 29<sup>th</sup> May 2012

The Parliament of Montenegro 24. meeting

The President

Ranko Krivokapić m.p.

